Good Governance Toolkit

This set of materials is focused on improving governance of commercial interactions, relationships and influence in UK local authorities, to maximise benefits and minimise risks for population health.

ANNA BROOK & KATHERINE KÖRNER (2024)

Foreword

'There are clear, evidence-based policy options available to reduce the burden of harm from NCDs, including measures to reduce consumption of health harming commodities by increasing the price, controlling availability and restricting marketing...[however] there remain barriers and challenges to their implementation. One of the most significant barriers to progress is the influence of powerful corporate actors on the policy process.'

https://spectrum.ed.ac.uk/news-insights-and-events/insights/industry-influence-barrier-progress-public-health-policy

The case for action

Between one in five and one in four deaths in the UK were preventable in recent years (22.5% in 2019).[1] This means many of these deaths could have been avoided if health-harming products such as tobacco, alcohol and gambling were not hugely profitable at the expense of our residents' health and lives, and if our residents could be protected from health hazards such as air pollution and poor housing.

Over 1 in 5 of all deaths in the UK were preventable

Not only are people dying too early, but they are spending too much of their lives in poor health. These burdens are not equally distributed – it is well established that being poor costs our residents years of life, and even more years living in good health, largely due to preventable causes.[2] Since the pandemic, these inequalities have only grown.[3]

There are many factors that make healthy behaviours harder and unhealthy behaviours easier, but some that are getting increasing attention in Public Health are "The Commercial Determinants of Health" – the impacts that private sector activity has on all aspects of the health and wellbeing of our residents.[4]

Gambling Education programmes are predominantly funded by the gambling industry

*A recent analysis of resources provided by three gambling industry funded charities (GambleAware, GamCare and the Young Gamers and Gamblers Education Trust) and their partners demonstrated how **these materials align with industry interests, normalising gambling and deflecting from the harmful nature of the products and services** while shifting responsibility for harm onto children, youth and their families. (van Schalkwyk, Hawkins & Petticrew, 2022)*

The private sector affects health both through the products it sells – whether tobacco and alcohol, or antibiotics and sunscreen – and through the wider actions taken by commercial organisations. This might include lobbying for less regulation, using power and substantial campaigning resources to shift conversations towards individual responsibility, or even producing educational materials to influence how health issues are taught in schools.[5]

The role of litigation and threat of litigation by industry

Analysis found that both litigation and the threat of litigation were part of a coherent strategy by the alcohol industry to oppose Minimum Unit Pricing for alcohol in Scotland. Although this didn't prevent MUP it delayed its introduction by six years, which imposed costs on the Scottish government, and led to subsequent policy inertia. (Hawkins & McCambridge, 2020)

[1] Office for National Statistics, "Avoidable mortality in the UK: 2019," 26 February 2021. [Online]. Available: https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/causesofdeath/bulletins/avoidablemortalityinenglandandwales/2019. [2] The Health Foundation, "Life expectancy and healthy life expectancy at birth by deprivation," 6 January 2022. [Online]. Available: https://www.health.org.uk/evidence-hub/health-inequalities/life-expectancy-and-healthy-life-expectancy-at-birth-by-deprivation. [3] The King's Fund, "What is happening to life expectancy in England?," 10 August 2022. [Online]. Available: https://www.kingsfund.org.uk/publications/whats-happening-life-expectancy-england. [4] World Health Organization, "Commercial determinants of health," 21 March 2023. [Online]. Available: https://www.who.int/news-room/fact-sheets/detail/commercial-determinants-of-health. [5] Gilmore et al 2023 Defining and conceptualising the commercial determinants of health https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(23)00013-2/fulltext

The role of local government

Local government has a key role to play in how we protect our residents from corporate overreach. From education to planning, from advertising on council property to who sits around the table in local consultations, we have tremendous power over who shapes our residents' health, wellbeing, and life chances and a moral responsibility and statutory duty to use this power to protect their health.

There are many ways in which local government can take action. The brilliant Sustain Healthier Food Advertising Policy Toolkit has already been used by local authorities across the country to combat the bombardment of **high sugar, salt and fat food advertising** children and young people face every day and Adfree Cities & Badvertising have a fantastic toolkit for broader advertising policies including a legal opinion. Or if you are interested in protecting your residents from overreach by the **alcohol industry**, the Irish Community Action on Alcohol has produced i-Mark, an excellent toolkit and set of guiding principles for supporting organisational independence from the alcohol industry. For guidance on how to ensure you are meeting your obligations under the Framework Convention on **Tobacco Control**, ASH have the Article 5.3 toolkit. For rigorous research on the tobacco industry see the Tobacco Tactics site. For comprehensive Tobacco & Alcohol control programmes at a regional level, you can check out Fresh & Balance. The Health Foundation's local authority framework for population-level actions to address tobacco, alcohol and unhealthy food as three of the leading risk factors for ill-health includes examples of approaches taken by different councils and links to relevant legislation. Of course, not all action on commercial determinants of health can or should be restricted to local government - the NCD Alliance Scotland bring together many health organisations to reduce the health burden of non-communicable diseases (NCDs) through action on alcohol, tobacco and high fat, salt and sugar (HFSS) products, and ASH, the Obesity Health Alliance and Alcohol Health Alliance have worked together to produce a coherent policy approach to tobacco, alcohol and unhealthy foods. The World Health Organisation has a programme on the Commercial Determinants of Health at global level and Common Cause and VicHealth have developed healthy messaging guides for values-based framing that moves away from individual responsibility narratives.

One type of action local government can take – the focus of this toolkit – is to safeguard itself against **organisational conflicts of interest**. These are not problems of individual probity or bias, but the issues that arise when a council's interests are pulled in different directions.

This could be a simple and obvious question, such as whether to accept sponsorship from a fast food company for a council event aimed at children and families, where the financial and logistical benefits must be weighed against the harms to residents and the costs to the public purse of childhood obesity. Or it could be a much more tangled and messy question, where a long-term partnership with a commercial organisation is baked into the council's current mode of operation, with both costs and benefits that a e dismissed as business as usual.

The role of this toolkit

This toolkit gives councils the framework and tools to develop a consistent approach to managing commercial interactions and influence in line with the council's values and priorities.

Organisational conflicts of interest arise all the time, whatever a council's political makeup or immediate priorities – we believe that by naming them, understanding them, and acting consistently when addressing them, councils will be better able to pursue their goals and serve their residents.

Many local authorities have already done work to implement article 5.3 of the **Framework Convention on Tobacco Control** (in particular using the ASH and iPiP article 5.3 toolkit) and this can be built on to cover a wider range of industries.

The toolkit is framed around good governance and the values shared by all public sector organisations. It recognises that different local authorities have different social, economic and political climates, and does not set out to dictate what weight is given locally to different factors under consideration. Two councils using this toolkit may end up with two very different policies, based on their local, democratically established view of how best to serve residents. We would consider this a success.

The value we add by using a Commercial Determinants of Health lens to produce this toolkit is the value of clarity and evidence. Building on the wealth of both practical and academic expertise and decades of evidence in this field, we are able to illuminate industry tactics and hidden costs as they apply to local authority settings, and provide potential frameworks to help councils make informed, consistent decisions that translate easily into daily practice. This means we have focused on governance relating to the influence of, and interactions with, organisations whose interests conflict with aims to protect and improve public health.

Over to you

You don't have to do everything at once...
For example, you could choose to start with...

...a process you have a lot of involvement in, such as health impact assessments

...an area of policy where there is clear existing evidence for commercial influence such as education (including materials developed for schools)

...an organisation-wide policy that builds on the obligations of local authorities related to tobacco control and is focused initially on influence and interactions with a specific unhealthy-commodity industry such as alcohol, gambling or fossil fuels.

We hope this toolkit provides clear, concrete steps for action within your local authority. Every local authority is different, so we encourage you to use what is useful and discard what isn't. In some local authorities, the health and wellbeing focus of some of our examples will be highly relevant and persuasive. In others, you may have to draw more on other considerations to bring costs and benefits alive to your stakeholders, such as the impact of close commercial ties on democratic decision making, or whether the overreach of large corporations harms the viability of local businesses.

Particular allies in local authority - who are likely to already be doing some of this work as their daily business - are the elected members who sit on Scrutiny Committees and the local government colleagues who support them. We encourage you to engage with and work closely with Scrutiny Officers to ensure you understand what has already been done to protect against organisational conflicts of interest, and how these issues play out when they emerge through Scrutiny.

Our primary audience for this document is public health colleagues who work in (or closely with) local authorities and who are looking to take local action on the commercial determinants of health. You may be relatively new to the topic, or you may be a veteran of the field who has already made considerable progress within your organisation. We hope that this toolkit will be an enabler for concrete, positive action – whether you follow it as a step-by-step guide, or dip into it for evidence and ideas while taking your own route to action.

If you are coming from outside public health, or this is your first exposure to the concept of commercial determinants of health, then you may want to take some time to familiarise yourself with the evidence behind the field and some of the key pushback you are likely to face.

There are key areas of internal policy process that we have not covered in detail here, such as how to disseminate a policy effectively through your organisation, or how to ensure that it is followed, monitored and updated in line with best practice. Processes and procedures differ dramatically between local authorities, and the expertise we have drawn on in this toolkit has less to add in these areas. Instead, we encourage you to work closely with relevant internal partners to ensure these aspects of successful policy work get the attention they deserve.

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We are keen for all comments and feedback, in particular please let us know if you have used the toolkit and have any examples to share with others

Contents

How is this document organised?

This document includes the following sections. Each main section is followed by a relevant supporting evidence section. Although the whole document is long, individual sections are relatively short. We encourage you to dip into the bits that are relevant to you.

As you are reading through the earlier sections, you may be asking yourself 'how do I do this in practice?'

Sections 3 and section 5 cover the majority of the 'how to' suggestions and practical application.

Section	Pages in main section	Supporting evidence
Foreword	*3*	*n/a*
Section 1: Introduction and how to use the document	*2*	*n/a*
Section 2: Why is this important? *Sets out the case for using good governance to protect health*	*2*	*4*
Section 3: Managing private-sector engagement in governance *Sets out the issues to consider and evidence to support decision making about how to involve private sector and private-sector-influenced stakeholders in the development of, and consultation on, good governance policy / process*	*2*	*2*
Section 4: What to be aware of as you go into this process *Sets out benefits of good governance and key issues to be aware of*	*5*	*1*
Section 5: Principles and content considerations for good governance policy & process *Includes an example risk assessment approach*	*7*	*4*
Section 6: FAQs *Sets out some key questions and provides evidence to support you thinking through answers*	*4*	*12*
Section 7: Glossary and definition of terms: *Sets out key terms used*	*7*	*n/a*

Section 1
Introduction

Introduction

This toolkit is focused on improving governance of commercial interactions, relationships and influence in UK local authorities, to maximise benefits and minimise risks for population health.

Who is this toolkit for?

The toolkit is aimed at public health colleagues who work in (or closely with local authorities and who wish to ensure that decisions and arrangements regarding commercial interactions and influence are governed effectively to improve population health.

The intended audience is those who are already thinking about the commercial determinants of health and seeking to take local action. We recognise that if you are coming from outside public health, or this is your first exposure to the concept of commercial determinants of health, then you may need to consider opportunities to familiarise yourself and key colleagues with the evidence and issues and some of the key pushback you are likely to face before beginning to use these materials.

What is the guiding purpose?

Unhealthy commodity industries: See glossary for definition from the SPECTRUM research consortium's policy 'this term is used to collectively refer to companies who manufacture, produce, process, distribute, import, sell and/or market other products or services, (including any company that derives significant revenues from producing, selling or marketing such products or services) that could be considered detrimental to physical or mental health and, as a result, profit from their sale.'

It is assumed throughout that the overarching purpose for the development of a good governance policy or process is to improve the health of the local population. Some local authorities may not explicitly prioritise resident health and wellbeing above other strategic aims. If this is the case, it is important to explore how this work relates back to the organisation's core strategic values - such as giving all residents a fair chance in life, or making the local authority a great place to live, work and study – to set out the overarching guiding purpose for your work. Throughout the development work, this guiding purpose can serve as a check-in for people developing the policy/process and once the policy/process is in place it should again be the overarching check for decision-making. For example 'does allowing/accepting/doing X help us to improve the health of our local population?'

Where should my organisation make a start?

This set of materials is intended to help you develop a policy that formalises certain risk assessment principles and practices so that they are used consistently across the council. You may wish to begin with policy development straight away - either for the whole organisation or for a team or department - or you may wish to start by testing out how the processes would work in practice before formalising them into a policy. These documents are framed around policy development, but should help with either approach.

For example:

- you could choose to start with a process that the public health team has a lot of involvement in, such as health impact assessments

- you could choose to start with an area of policy where there is existing evidence for commercial influence such as education (including materials developed for schools)

- you could choose to start with an organisation-wide policy that builds on the obligations of local authorities related to tobacco control and is focused initially on influence and interactions with a specific unhealthy-commodity industry such as alcohol or gambling or fossil fuels.

What is missing from this document?

In addition to the steps covered in these materials, you may wish to consider the following in developing and implementing new policy or practice:

There are additional steps that you may want to consider when developing and implementing new policy of practice.

- Thinking about and responding to potential industry pushback (from the outset and throughout)

- Talking to others who are working on similar approaches

- Getting initial support & agreeing the team, leadership, resources and sequence

  - Thinking about building competency and awareness raising - sensitising key people to the issues and helping them work through some of the consequences of approaching this in different ways - see PAHO Conflict of Interest Roadmap for case studies to work through
  - Work out who to involve, and when, both internally & externally
  - Lists of potentially supportive stakeholders & allies (we suggest scrutiny could be a good option to consider)
  - Presentations and reports in draft: see section 2 and its supporting evidence to support with making the case in general, and the supporting evidence for section 5 for information about existing guidance and frameworks for specific industries that demonstrate the normality of this approach
  - What is the formal policy development process in your local authority? - Who needs to "do the doing" of this good governance policy development and what resources are required?
  - Resources needed for development and implementation:
    - ‣ Comms support
    - ‣ Potential for legal
    - ‣ Other
  - Supporting strategies & policies (how does this connect with other strategy and policy in the organisation)
  - Sequencing & timing as part of planning

- Determining scope and approach (see section 5 on principles and content considerations)

- Drafting policy

- Getting approval / corporate & political sign off

- End product (policy)

- Implementation (including dissemination): it will be really important to consider how best to inform others and ensure that staff and elected officials across the organisation, other teams, taskforces and boards are aware of good governance principles, policies and processes that are developed and that they abide by them.

- Evaluation & iteration

- Across implementation evaluation and iteration: thinking about how to manage the policy and processes over the long term – how do we embed this into daily practice? For example, do you need a small working group to use as a sounding board? Is it that there is a declaration register that is updated? The critical thing to remember here is that this is not just a one-off 'auditing' process of organisational conflicts of interest, but an ongoing, interactive, live process that can be improved upon as learning is gained.

Section 2
Why is this important?

2. Why is this important?

'If we don't act on the commercial determinants of health, then our futures will be defined by the economic needs of a handful of companies in a handful of industries rather than what we think is really important'

Professor Jeff Collin ([Healthier Fairer Futures film](#))

Good health matters to people. It is a basic human right. We need to design and govern our societies and communities to support everyone's health. This includes protecting our populations from harmful private sector activities, including through good governance.

At the moment too many people are dying too young and struggling with poor health, years before they should. Inequalities in health are substantial and growing: people living in the poorest areas, from certain ethnic minority and inclusion health groups are spending more years in poor health and dying sooner. We know that health and health inequalities are largely caused by the wider determinants of health and that non-communicable diseases (mainly cancer, cardiovascular disease, chronic respiratory diseases, and diabetes) are the main cause of death and poor health in the UK and globally.

Exposure to health-harming products (such as tobacco, alcohol, high fat, salt and sugar foods, gambling products, fossil fuels) can cause and contribute to non-communicable diseases. It is unethical for companies and industries to increase people's exposure to such health-harming products and to target poorer communities and young people.

> NICE guidance recommends that alcohol interventions in secondary school, including education, needs to avoid unintended consequences including encouraging young people to try alcohol, and research into alcohol-industry funded education programmes identifies that such programmes may normalise drinking, focusing on personal responsibility and the importance of so-called 'responsible drinking' and misinformation about harms including cancer.

'Commercial determinants of health are the private sector activities that affect people's health positively or negatively.'

(WHO)

Whilst corporate activities can benefit population health, it is not the primary aim of most companies, which is to make profit. Beyond the products that companies produce, advertise and sell, which may harm or benefit health to different degrees, the ways in which they operate can also contribute to shaping the social and physical environments in which we live and work. Different private sector practices and their impacts on health are covered in more detail in the supporting evidence at the end of this section but some examples include:

- pollution and waste generated by production
- employment conditions affecting workers' health
- ownership of resources and how power is distributed and used
- lobbying and shaping the policy and political landscape through financial donations
- the movement of influential people between commercial and governing organisations
- using influence to, for example, frame health as an individual responsibility, or to avoid regulation or to create false doubt about scientific consensus.

When the aims and activities of the private sector are in conflict with aims to improve people's health, good governance can ensure public interest is prioritised. In the UK, the Nolan Principles for public life are often **used as the basis of good governance and ethical practice.** At its heart, good governance is about ensuring public organisations act in the public interest. To support local government's statutory duty to improve the health of its population, significant organisational conflicts of interest in this area must be prevented and any potential conflicts risk assessed and managed transparently. It is not always obvious what constitutes an organisational conflict of interest or how significant a risk it may present.

In this toolkit, we provide links to evidence about some of the ways organisational conflict of interest may arise, what to look out for, suggestions about how to risk assess these and think about next steps including mitigations. Most of all we hope this toolkit will get people thinking and talking more deeply and openly about organisational conflicts of interest in public health, recognising the normality of coming across situations where it needs consideration and making it equally normal to stop and think about how to proceed, within planned supportive frameworks.

Section 2: Supporting evidence

*See below for more detailed explanation of the evidence referred to in **Section 2: Why Is this Important?** and for links to the key references.*

In 2019, in the UK

22.5%

of deaths were considered avoidable

TOO MANY PEOPLE ARE DYING TOO YOUNG

'In 2019, 22.5% of all deaths in the UK were considered avoidable (136,146 deaths out of 604,707); this remains in line with the five-year average (2014 to 2018).'
https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/causesofdeath/bulletins/avoidablemortalityinenglandandwales/2019

'Since 2011 improvements in life expectancy in the UK have stalled, and for certain groups of the population, gone into reverse…a rising number of avoidable deaths among the under 50s and a widening gap in life expectancy between the richest and poorest.'
https://www.health.org.uk/publications/reports/mortality-and-life-expectancy-trends-in-the-uk

More than

1/5th

of life will likely be spent in ill health

TOO MANY PEOPLE ARE STRUGGLING WITH POOR HEALTH, YEARS BEFORE THEY SHOULD

'Healthy life expectancy at birth in England in 2015–17 was 63.4 years for males and 63.8 years for females, meaning that more than one-fifth of life will likely be spent in ill health.'
https://www.health.org.uk/sites/default/files/2020-03/Health%20Equity%20in%20England_The%20Marmot%20Review%2010%20Years%20On_executive%20summary_web.pdf

'Healthy life expectancy at birth in the UK showed no significant change between 2015 to 2017 and 2018 to 2020 and disability-free life expectancy at birth in the UK decreased significantly for both males and females between 2015 to 2017 and 2018 to 2020' https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandlifeexpectancies/bulletins/healthstatelifeexpectanciesuk/2018to2020

INEQUALITIES IN HEALTH ARE SUBSTANTIAL AND GROWING

'Someone younger than age 75 in the poorest tenth of the country is around three times more likely to die in the next year than someone of the same age living in the richest tenth.'
https://www.health.org.uk/news-and-comment/charts-and-infographics/deprivation-and-excess-deaths

On average, **life expectancy at birth differs by**

12 yrs

between the most & least deprived local authorities for men & women

'On average, healthy life expectancy at birth differs by 12 years between the most and least deprived local authorities for men and women.'

'People in more deprived areas spend more of their shorter lives in ill-health than those in less deprived areas.' https://www.health.org.uk/sites/default/fi es/2020-03/Health%20 Equity%20in%20England_The%20Marmot%20Review%2010%20Years%20On_executive%20 summary_web.pdf

'In England, there are health inequalities between ethnic minority and white groups, and between different ethnic minority groups. The picture is complex, both between different ethnic groups and across different conditions, and understanding is limited by a lack of good quality data.' For specific facts and figures see: https://www.kingsfund.org.uk/publications/health-people-ethnic-minority-groups-england

DETERMINANTS OF HEALTH – CONTRIBUTION TO HEALTH AND MORTALITY

Commercial determinants contribute to **at least**

1/3

of all deaths globally

Studies suggest that the social determinants of health account for between 30-55% of health outcomes https://www.who.int/health-topics/social-determinants-of-health#tab=tab_1

Initial estimates suggest commercial determinants contribute to at least 1 in 3 (36% and probably more than half (58% of all deaths globally, and at least 4 in 10 (41% and probably more than 3 in 4 (78% deaths from noncommunicable disease. https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(23)00013-2/fulltext

NON-COMMUNICABLE DISEASES

For specific information about the Tobacco Industry, see [**TobaccoTactics**](#) **'a knowledge exchange platform, established by the Tobacco Control Research Group (TCRG) in 2012. It is a unique resource, providing rigorous academic research and monitoring data on the tobacco industry and its allies.'**

'NCDs (noncommunicable diseases) are the number 1 cause of death and disability worldwide, accounting for 74% of all deaths and more than three out of four years lived with a disability.' https://ncdalliance.org/why-ncds/NCDs

'Each year, more than 15 million people die from a NCD between the ages of 30 and 69 years; 85% of these "premature" deaths occur in low- and middle-income countries. Cardiovascular diseases account for most NCD deaths, or 17.9 million people annually, followed by cancers (9.3 million), respiratory diseases (4.1 million), and diabetes (1.5 million). These four groups of diseases account for over 80% of all premature NCD deaths.' https://www.who.int/data/gho/data/themes/topics/topic-details/GHO/ncd-mortality

EDUCATION MATERIALS: SPECIFIC EXAMPLE

NICE guidance recommends that alcohol interventions in secondary school, including education, needs to avoid unintended consequences including avoiding encouraging young people to try alcohol. https://www.nice.org.uk/guidance/ng135/chapter/Recommendations

Research into alcohol-industry funded education programmes identifies that such programmes may normalise drinking, focusing on personal responsibility and the importance of so-called 'responsible drinking' and misinformation about harms including cancer. https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0259560

A summary of commercial practices and how they affect health and inequalities can be found in the Lancet 2023 series. These include:

- Political
- Scientific
- Marketing
- Labour & employment
- Financial
- Supply chain & waste
- Reputation management

Gilmore et al. 2023 , Defining and conceptualising the commercial determinants of health https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(23)00013-2/fulltext

When making a profit is directly in conflict with aims to improve population health, it is important that organisations whose responsibility and statutory duty to protect population health are aware that the systems they put in place to achieve this duty may be challenged by organisations with conflicting goals. For example, regulation is an evidence-based way to protect health, self-regulation, co-regulation and voluntary partnership arrangements are often promoted by industry groups as an alternative, despite the lack of evidence for their effectiveness. See also section 6 FAQs for discussion of how regulation can level the playing field.

Gilmore et al. 2023, Defining and   conceptualising the commercial determinants of health https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(23)00013-2/fulltext

Moodie et al. 2013, Profi ts and pandemics: preve ntion of harmful effects of tobacco, alcohol, and ultra-processed food and drink industries https://www.sciencedirect.com/science/article/abs/pii/S0140673612620893?casa_token=ev7b9GSYvY4AAAAA:Y2ldUBM3QE-t56HFJlVudFyqicbD-XOqVBwQ3YlfWOIxHDAQd9NCYy5d1YUUmLYpylO7t3FfwPA

Smith et al. 2015, Corporate Coalitions and Policy Making in the European Union: How and Why British American Tobacco Promoted "Better Regulation" https://read.dukeupress.edu/jhppl/article-abstract/40/2/325/13750/Corporate-Coalitions-and-Policy-Making-in-the?redirectedFrom=fulltext

Systems may be challenged by organisations with conflicting goals.

Pollution and waste generated by production https://www.who.int/news-room/fact-sheets/detail/commercial-determinants-of-health

Employment conditions and unsafe working practices affecting workers' health https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-020-00607-x

Ownership of resources and how power is used https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-018-0336-y

Lobbying and shaping the policy and political landscape through, for example:

- **Financial donations** https://pubmed.ncbi.nlm.nih.gov/30474155/

Lobbying and shaping the political landscape

- The **movement of influential people** between commercial and governing organisations https://www.phrp.com.au/issues/september-2019-volume-29-issue-3/the-revolving-door-between-government-and-the-alcohol-food-and-gambling-industries-in-australia/

- **Partnerships** https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-019-7787-9

- **Access to decision-makers**, leveraging the legal and dispute settlement processes, and leveraging policymaking rules and processes. https://academic.oup.com/eurpub/article/32/Supplement_3/ckac129.088/6765585

- Using influence to, for example, **frame health as an individual responsibility** https://www.bmj.com/content/377/bmj.o1128

- To **prioritise commercial growth**: https://academic.oup.com/eurpub/article/32/Supplement_3/ckac129.088/6765585

- To **promote self-regulation** or less stringent regulatory regimes https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-019-7787-9 https://read. dukeupress.edu/jhppl/article-abstract/40/2/325/13750/Corporate-Coalitions-and-Policy-Making-in-the

- Or **create false doubt about scientific consensus**

  - for example through presenting alternative, misleading, explanations for product harms, in this study there was significantly greater uncertainty about harms of tobacco, alcohol, sugar sweetened beverages and fossil fuel harms when people were presented with industry developed information that included alternative causation arguments. https://www.sciencedirect.com/science/article/pii/S2352827321002846?via%3Dihub

  - or through methods to influence the conduct and publication of science to skew evidence bases in industry's favour, and to influence interpretation of science to undermine unfavourable science and create a distorted picture of the evidence base https://journals.plos.org/plosone/article/fi e?id=10.1371/journal.pone.0253272&type=printable

  - and https://ehjournal.biomedcentral.com/articles/10.1186/s12940-021-00723-0

  - and https://www.merchantsofdoubt.org/

Denial, doubt and delay

A well documented pattern used by industries for maintaining a (profitable, health-harming) status quo.

Denial, doubt and delay: A well-documented pattern used by industries for maintaining a (profitable, health-harming) status quo is:

- To **deny** the central claim that there is a problem

- To accept there is a problem, but **cast doubt** on how serious the problem is, whether there is a need for action at all, and what action might work

- To accept the need for action, but seek to **delay** (or distract from) impactful actions by pushing ineffective solutions, exaggerating the negative consequences of effective solutions, or using legal and administrative processes to lengthen timelines.

This pattern is particularly well-understood in the study of commercial actions around climate change, but the same strategies are used by many industries to protect their commercial interests.

Williams, Emily L., et al. 'The American electric utility industry's role in promoting climate denial, doubt, and delay.' Environmental Research Letters 17.9 (2022): 094026. https://iopscience.iop.org/article/10.1088/1748-9326/ac8ab3

Hulac, Benjamin. ' Tobacco and Oil Industries Used Same Researchers to Sway Public.' ClimateWire (2016) – reprinted by Scientific Americ an. https://www.s cientificamerican.com/article/tobacco-and-oil-industries-used-same-researchers-to-sway-public1/

Section 3
Managing private sector engagement

3. Managing private sector engagement in governance

It is important that stakeholders' roles in developing a good governance policy or process are clearly delineated.

In particular

1. Key decisions should be made internally – these may take into account external stakeholder input gathered before the decision is made (with written documentation of how this input was gathered), but external stakeholders should not be participants in key decision-making discussions.

2. Informal discussions on this policy with external stakeholders should be limited. Instead, formal processes for consultation should be planned and used.

Why is this important?

A key aim of this work is to enable the council to make consistent and informed judgements about access to decision-makers, influence on democratic processes, and access to council money and resources. This means that those who currently enjoy informal influence and access are least likely to want change and most likely to be able to prevent change through exactly these routes.

Be aware of the potential for clear guidelines to be pushed - seeking to establish a relationship outside of the formal processes or to make relationships more informal and casual as a way of developing influence through follow up calls, clarifications, meetings, emails etc. Some of our expert stakeholders felt it was important to draw clear lines about any follow up outside of formal consultation processes, for example requiring exchanges to be in writing only.

The eventual good governance policy's stance on informal influence may be highly restrictive, highly permissive, or anywhere in between. However, the process itself for deciding the good governance policy must be carefully managed to avoid informal influence. This is necessary to ensure that it genuinely reflects the democratic priorities of good governance, and not the priorities of those who have historically had influence and seek to retain it.

How can this be achieved?

1. Each step of the process must be clear in advance on whether and how it will involve external stakeholder input (including from partner organisations) and how such input will be documented transparently.

2. Initial policy formation and final policy agreement must not directly involve external stakeholders.

3. Stakeholder input may include formal consultation processes, roundtable discussions, workshops, invitations to submit evidence or review a draft policy, etc – what is important is that these processes are laid out clearly in advance, carried out transparently, documented transparently, and do not privilege organisations or individuals with closer ties to the council.

4. Ideally, there would be no informal discussions with external stakeholders on this good governance policy outside designated stakeholder input events/invitations. However, if this cannot be avoided, then clear guidelines should be agreed and followed to ensure there is consistency in approach in terms of
    a. representation (eg that there are at least two people present)
    b. what may be discussed
    c. how to record what has taken place & processes for transparent documentation

[Note: This document was written in consultation with an expert steering group of academic, local government and third sector colleagues. Evidence around industry influence on policy-making is provided in the supporting evidence below, but some concerns addressed here are drawn from expert insight rather than published evidence.]

Section 3: Supporting evidence

Note: This document was written in consultation with an expert steering group of academic, local government and third sector colleagues. Evidence around industry influence on policy-making is provided in the supporting evidence below, but some concerns addressed here are drawn from expert insight rather than published evidence.

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KNOWN MECHANISMS BY WHICH INDUSTRIES INFLUENCE POLICY MAKING

....

Summaries of types of mechanisms

Research has documented evidence for many mechanisms by which industries influence policy making. A summary of commercial practices can be found in the Lancet 2023 series. These include:

- Political
- Scientific
- Marketing
- Labour & employment
- Financial
- Supply chain & waste
- Reputation management

Gilmore et al 2023 Defining and conceptualising the commercial determinants of health https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(23)00013-2/fulltext

Corporate political activity across food, tobacco, alcohol and gambling is synthesised here: 'Corporate Political Activity: Taxonomies and Model of Corporate Influence on Public Policy' Selda Ulucanlar, Kathrin Lauber, Alice Fabbri, Ben Hawkins, Melissa Mialon, Linda Hancock, Viroj Tangcharoensathien, Anna B. Gilmore. https://www.ijhpm.com/article_4440_1bbfcf93 0e5ae871990b3c8ddf5f639.pdf

Spotlight on long-term relationship building

Long-term relationship building with key decision-makers can result in

reciprocal

obligations

A known and well-documented mechanism of influence is 'long-term relationship building with key decision-makers via regular formal and informal contacts including creating reciprocal obligations' - these relationships ensure that they have a seat round the table and their voice is heard, whether or not it is appropriate. They position themselves as 'key stakeholders and partners in action' in order to narrow policy space by using framings and advocating for solutions that benefit them.

Jennifer Lacy-Nichols, Robert Marten, Eric Crosbie, Rob Moodie. The public health playbook: ideas for challenging the corporate playbook. The Lancet Global Health, Volume 10, Issue 7, 2022, e1067-e1072, https://doi.org/10.1016/S2214-109X(22)00185-1. https://www.thelancet. com/journals/langlo/article/PIIS2214-109X(22)00185-1/fulltext (Table 1)

Brown T. Legislative Capture: A Critical Consideration in the Commercial Determinants of Public Health. J Law Med. 2019 Jul;26(4):764-785. PMID: 31682356 https://fare.org.au/wp-content/uploads/TBrown_regulatory_capture_020819.pdf

Jim McCambridge, Melissa Mialon, and Ben Hawkins. 'Alcohol industry involvement in policymaking: a systematic review.' Addiction 113.9 (2018): 1571-1584. https://onlinelibrary.wiley.com/doi/full/10.1111/add.14216

Policies can result in industry attempts to gain

informal access to policy makers

Spotlight on informal influence / access

The work by the Greater London Authority to restrict high fat, sugar and salt advertising on Transport for London attracted a great deal of industry interest and attempts to gain informal access to policy makers. Lauber, Kathrin, et al. 'Corporate political activity in the context of unhealthy food advertising restrictions across Transport for London: A qualitative case study.' PLoS medicine 18.9 (2021): e1003695. https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1003695

KNOWN MECHANISMS TO REDUCE INDUSTRY INFLUENCE ON (HEALTH) POLICY

Summaries of types of mechanisms to reduce industry influence on policy

Mialon et al's 2020 paper identifies four main types of mechanisms:

- Transparency
- Management of interactions with industry and of conflicts of interest
- Identification, monitoring and education about the practices of corporations and associated risks to public health
- Prohibition of interactions with industry.

Mialon M, Vandevijvere S, Carriedo-Lutzenkirchen A, et al. Mechanisms for addressing and managing the influence of corporations on public health policy, research and practice: a scoping review. BMJ Open 2020;10:e034082. doi: 10.1136/bmjopen-2019-034082 https://bmjopen.bmj.com/content/10/7/e034082

The 2023 Lancet series on the commercial determinants of health identifies a combination of strategies including:

- progressive economic models
- international frameworks
- government regulation
- compliance mechanisms for commercial entities
- regenerative business types and models that incorporate health, social, and environmental goals
- strategic civil society mobilisation

Friel et al 2023 Commercial determinants of health: future directions https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(23)00011-9/fulltext

Transparency can reduce undue influence on policy and policy makers

Spotlight on transparency

Transparency is identified across many studies as a key force for reducing undue influence on policy and policy-makers (see for example Mialon et al 2020).

Health Canada has developed an approach to transparency of stakeholder communications for healthy eating initiatives whereby all relevant communication is published: https://www.canada.ca/en/health-canada/services/food-nutrition/healthy-eating-strategy/transparency-stakeholder-communications-healthy-eating-initiatives.html

Section 4
What to be aware of as you go into this process

4. What to be aware of as you go into this process

A clear, transparent policy on how your council works with different industries and organisations is in everyone's interests – it allows council business to go ahead smoothly, enables democratic accountability, and protects residents and public money from potential harms and waste. Without such a policy, you may find different parts of the council are taking different approaches in a way that leaves you open to legal challenges, and you risk the council or your residents paying the price for industry profits.
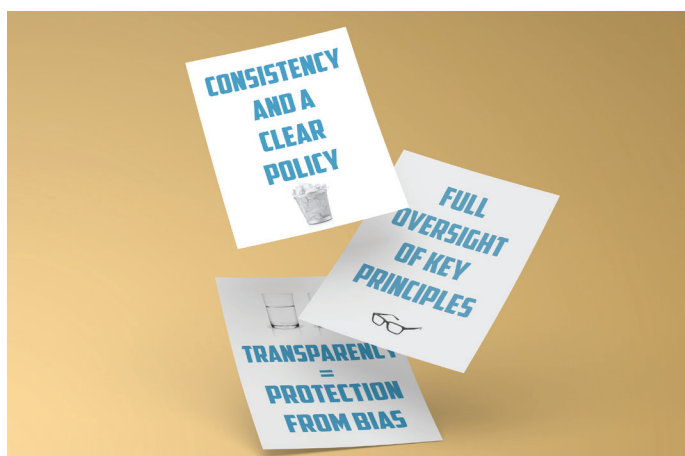
Internal benefits of having a clear policy in place:

Consistency across the organisation, limiting scope for honest mistakes or legal challenges

A clear policy is your best safeguard against inconsistent and ad hoc decisions being made in different areas of the organisation. While high-level decisions may see scrutiny from elected members, the day-to-day decisions made in the general business of running services and supporting residents cannot receive similar attention, and may be made very differently if no guidance is in place.

Elected members have full oversight of the principles officers use to decide when and how to work with different industries, organisations and stakeholders

As well as ensuring that everyone is following the same guidance, the process of agreeing the policy means that "grey areas" and priority mismatches are brought to light. This ensures that the key principles that underlie everyday decisions reflect elected members' and their residents' priorities, and the local authority's statutory duties and responsibilities - including protecting the health, wellbeing and resilience of local communities.

Examples: Inconsistencies and grey areas that may come to light:

- **How (and why) does policy and practice differ across teams and departments?**

- **Are local businesses and national chains selling harmful products treated in the same way? Should they be?**

- **Should charities who receive some or all their funding from private sector organisations be treated in the same way as the funding organisation?**

The council's reputation is protected from perceived or actual bias

Local authorities must not only act without undue influence and bias, but must also be seen to do so. A clear policy ensures a fair and transparent process for interacting with different stakeholders - and also demonstrates this commitment in a concrete manner. This means that when the council must make difficult or highly politicised decisions, everyone can be confident that both elected members and the officers supporting them are acting in line with the organisation's values, and are not biased by hidden conflicts of interest or informal access.

Resident benefits of having a clear policy in place:

The council is able to protect its residents' health and wellbeing by only working with industries and in ways that benefit residents

By having a clear policy agreed across the council, council-wide priorities – such as a good start in life for all children, or protecting vulnerable residents from debt - can be taken into account in decisions about who the council works with and how.

Residents are protected from hidden pitfalls and costs

While positive relationships with local businesses can help an area thrive, it's important to be aware of common industry strategies for pushing their own agenda at residents' expense. Situations framed as win-wins, such as a private-sector-funded charity sponsoring grassroots sports teams, require careful scrutiny and awareness of hidden risks. Questioning why an organisation or industry-funded charity may be pushing such activities is a useful starting point when considering these hidden pitfalls and costs.

Potential internal issues to be aware of:

Internal disagreements and differing priorities

Concerns around the impact of policy on projects & relationships

There are likely to be good-faith disagreements within any local authority about how to best serve residents. Colleagues within the council, including those in revenue-generating departments and/or with closer relationships with local businesses, may have concerns about the implementation of any policy developed, and the implications for particular projects or relationships. They may be concerned about any potential limits to working with the private sector on the grounds of possible economic harms – both real and imagined – and may regard the benefits as intangible and uncertain.

Suggested strategies to consider:

- Identify potential conflicts early and talk to colleagues across teams to help bring them on board with the idea of developing a policy to guide practice.

- Do not shy away from these conflicts - where necessary, these are exactly the issues that must be discussed in order to form policy.

- To address concerns around projected economic impact, use concrete examples of where projected losses haven't been seen: TfL advertising policy; sugar tax, and discuss the importance of explicit trade-offs where projected benefits or losses are unknown or uncertain.

- Be aware of potential delaying or stalling tactics or suggestions for alternative approaches that rely more on voluntary efforts (see supporting evidence in section 2) that internal colleagues may inadvertently go along with in good faith, and try to avoid bottlenecks.

- Be clear that this policy is not intended to catch anyone out or stop the organisation conducting its business. A good policy will help everyone understand expectations and standards put in place to ensure that the organisation is working in the best interests of residents.

Party-political issues

Care must be taken to remember that the issue is about **good governance**

Organisational conflicts of interest are not a party-political issue, and there is no left-right divide in the principles of transparency, democratic accountability, and fairness. Care must be taken to remember that this issue is, at heart, about good governance, and while there may be good faith disagreements about where certain lines should be drawn, the need for such lines is not party political.

Suggested strategies to consider:

- The party-political landscape of every local authority is different, and there is no one-size-fit -all approach. However, you may be able to depoliticise the issue by focusing on the democratic principles underlying the need for the policy, and explicitly challenging any attempts by others to frame this as party-political.

- This work may have a natural link to one of your local authority's council committees - either to one specific to the team/department where you are trialling a policy or to the Overview and Scrutiny Committee. If your local authority's elected membership has strong representation from more than one political party, this may be a helpful route for getting cross-party buy-in.

Potential external issues to be aware of:

Industry pushback, both real and imagined

Please note: Although there is clear and documented evidence of industry influence over the development of policy in general, there were varying stakeholder views on the likelihood and impact of industry pushback against the development of good governance policy and processes to govern interactions with external stakeholders, and we were not able to find any documented evidence on this although there was anecdotal evidence shared. It may also be context dependent.

See next page for considerations and strategies.

Consideration is needed of the potential pushback to decisions that are informed by any good governance policy. While it is hoped that having a clear and transparent policy to guide such decisions is protective, the potential for legal challenge may be included in the risk-benefit analysis during the decision-making process.

Suggested strategies to consider:

- A balanced view is needed about potential pushback. It is important to be aware that individuals and organisations who enjoy access to local authority decision-making may not want to lose this influence, and may exert pressure to keep it. However, councils should be wary of falling victim to a "chilling effect" of avoiding taking action in this area due to imagined or exaggerated risks.

- It is important to be clear internally about the risk- benefit trade-off and principles & processes for decision-making, so that any pushback is understood in the context of wider benefits and risks.

- If local authorities are concerned about the potential for legal challenges, they may wish to commission a legal opinion or other expert feedback on a draft policy. Local authorities with similar policies in mind may benefit from jointly commissioning such an opinion.

Third party mediators

Watch for 'compromise' positions. It is for **local government to determine its own policy.**

Third parties may see themselves as adding value by attempting to frame advocates for a good governance policy as being to one extreme of the issue, opponents as to the other extreme, and their role as to find a reasonable middle ground between these two opposing views. The danger of this is a shifting of the perceived policy window towards "compromise" positions that undermine local government protections against undue influence. It may also lead to pressure to give the private sector a louder voice in the policy formation process. It is for local government to determine its own policy.

Suggested strategies to consider:

- We recommend clarity from the outset on which stages of this process will have external stakeholder input and what the scope of this input will be. This will help to avoid gradual slippage when third-parties make the case for their additional involvement at individual stages.

- Awareness of the potential pitfalls of involvement from third-party mediators (however genuine their goals or however distinct they are from powerful industries) may itself be protective here.

Organisations pursuing private sector interests

It is not always obvious which organisations are pursuing private sector interests over resident health and wellbeing. There are many examples of harmful commodity industries using other organisations to pursue their agendas, through establishing or funding third-party organisations. For example, organisations funded even partially or indirectly by industry may provide information that downplays health risks or promotes responses to problems that are overly focused on individual responsibility rather than on the harms caused by the industry or its products. Engaging in corporate social responsibility activities may promote recognition and a positive image of brands or an industry overall, even while they appear to be aimed at doing good. Whilst of course some of these activities can provide some benefits, they can also draw attention away from the harms caused by certain private sector practices and products and away from policies that are needed to address these harms. It is important to understand the nature and practices of any organisations that local government are working with or promoting in order to determine explicitly whether and how they wish to interact with this organisation.

> Organisations even partly or indirectly funded by industry may provide information that **downplays health risks or promotes indivdual responsibility**

Suggested strategies to consider:

- Consider the purpose of the interaction and whether the benefits to the other organisation might cause harm to the local authority and its residents. These benefits could be either or both:
  – benefits to an organisation pursuing industry interests
  – benefits to the industry more broadly
- Check past and present funding and partnerships of organisations

A set of guiding questions for considering the different practices and attributes of commercial entities (and suggested data sources to assist in answering them) is available in the Lancet series on the Commercial Determinants of Health, paper 2 figure 3: https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(23)00012-0/fulltext

Note: This document was written in consultation with an expert steering group of academic, local government and third sector colleagues. Evidence around some of the issues covered here is found below, but many of the horizon scanning issues in this section are drawn from expert insight and experience rather than published evidence.

Section 4: Supporting evidence

See below for more detailed explanation of the evidence referred to in Section 4 and for links to the key references.

INTERNAL DISAGREEMENTS AND INDUSTRY PUSHBACK

It is well-established that attempts at a national or international level to limit or curtail external groups' access to government decision-makers will be met with pushback both from some external groups and from some decision-makers. See for example:

Crepaz, M. (2021. How parties and interest groups protect their ties: The case of lobbying laws. Regulation & Governance, 15(4, 1370-1387. https://doi.org/10.1111/rego.12308 Full text of pre-print available at https://pureadmin.qub.ac.uk/ws/portalfi les/portal/246682555/Preprint_Crepaz_R_G.pdf

However, movement towards transparency and away from conflicts of interest can also be embraced, wholly or in part, by both decision-makers and lobbyists, as it is also seen as a way to repair public trust in democratic systems:

Holman, C., & Luneburg, W. (2012. Lobbying and transparency: A comparative analysis of regulatory reform. Interest Groups & Advocacy, 1, 75-104. https://link.springer.com/article/10.1057/iga.2012.4

ORGANISATIONS PURSUING INDUSTRY INTERESTS

For example, analysis of tobacco industry documents demonstrate **funding youth programmes as a tactic to influence favourably government perspectives of the tobacco industry** with the aim of preventing or delaying regulation of the industry ref: Landman, A., Ling, P. M., & Glantz, S. A. (2002. Tobacco industry youth smoking prevention programs: Protecting the industry and hurting tobacco control. American Journal of Public Health, 92(6, 917–930 https://ajph.aphapublications.org/doi/full/10.2105/AJPH.92.6.917

For example alcohol industry funded DrinkAware materials downplaying certain health risks https://onlinelibrary.wiley.com/doi/10.1111/dar.12677

For an example of companies using their public relations divisions and corporate social responsibility (CSR) initiatives to position themselves as public health leaders, 'internal documents from Coca-Cola reveal that an explicit aim of its 'Movement is Happiness' campaign was to 'marginalize detractors,' namely those in the public health community and government that were opposed to its core market strategies and outlook.' refs: https://www. ijhpm.com/article_4138_d04df8b8b99788d0c6cb82046afcdaec.pdf and Wood B, Ruskin G, Sacks G. Targeting children and their mothers, building allies and marginalising opposition: an analysis of two Coca-Cola public relations requests for proposals. Int J Environ Res Public Health. 2019;17(1):12.doi:10.3390/ijerph17010012

Section 5
Principles & content considerations for the good governance policy or process

5. Principles and content considerations for the good governance policy or process

What is the purpose of this section?

This section gives you some practical suggestions about what you might want to include in any organisational good governance policy and some examples of ways to risk-assess interactions and identify and manage organisational conflicts of interest.

Interactions with a wide variety of people and organisations are a normal part of local authority and public health work. Working with others may bring many and varied benefits However, there is a body of evidence documenting the ways in which private sector practices can harm health. Some (such as tobacco, gambling, alcohol and fossil fuel industries) have used a variety of both overt and covert tactics to undermine the progress of policy to improve health (see previous sections for examples).

Local authorities need to be aware of the risks to health of undue influence from organisations with conflicting interests and use clear processes to support them in their duty to protect residents' health and wellbeing.

Examples of interactions include:

- Meeting with a group of local charities
- Considering sponsorship of local activities
- Provision of educational materials for schools
- Offer of free tickets for staff
- Partnership working eg for a food poverty action group
- Having a stall at a council-hosted jobs fair

Issues to consider

In order to prevent, address or respond to organisational conflicts of interest, you will need to think through the following issues, each of which has a more detailed sub-section below:

1. The scope of interactions you think need to be covered by your policy or processes

2. Your organisation's principles for good governance (which will inform what is considered an organisational conflict of interest)

3. Risk and benefit assessment, trade-offs and mitigations

4. Options for action when an organisational conflict of interest is identified

Note: this section does not cover the ongoing processes or implementation. See Section 1 for a brief outline of issues to consider.

1. Scope & size of interactions

If you are developing a good governance policy or starting to use a risk assessment process, you will need to consider the scope of the interactions that will be covered. Some options of places to make a start follow:

- **Organisation-wide but focused on specific industries:** for example building on local authorities' obligations related to tobacco control and focusing initially on influence and interactions with one or more specific industries whose goals may be in direct

conflict with local priorities (eg those working in and funded by alcohol, gambling, certain food and drink, arms, and/or fossil fuels industries).

- **Restricted to a single team or process within the organisation but covering a wider remit of interactions across industries** – for example you could start with a process your team has a lot of involvement in, such as health impact assessments.

- **Organisation-wide, not restricted to specific industries but focused on a single policy area**: for example organisational conflicts of interest that may affect our ability to give all children a fair start in life or education (including materials developed for schools).

You will also need to consider whether your good governance policy or processes should have different approaches for different sizes or levels of interaction or engagement. For example, do you want it to have the same process for meetings as for funding arrangements? If you do this, it will be important to consider how to ensure that any differentiation related to size of interaction does not open up routes for unwished-for covert influence.

In the good governance policy or process documentation, you may wish also to give some examples of types of interactions (see page above for some examples and the glossary for further discussion about types of interaction). It is probably not helpful to have an exhaustive list but a range of illustrative examples will help people to consider good governance in relation to some of the less obvious interactions.

Your policy or process will almost certainly have some exclusions for interaction. For example, not engaging with organisations known to be complicit in human rights abuses. However, it is also important to be clear about the kinds of interactions that fulfil statutory or regulatory duties (such as monitoring or inspections). Article 5.3 of the Framework Convention on Tobacco Control sets out the requirements for this type of interaction with the tobacco industry and there is practical guidance for implementation which it may be helpful to adapt for other industries.

2. Principles for good governance

In the UK, the Nolan principles for public life are often used as the basis of good governance and ethical practice. Local authorities may wish to use these principles to underpin their organisational policy. Taken together, these principles reflect a norm that undue influence from vested interests should be minimised.

Whilst the Nolan principles are a helpful starting point, there is still a level of interpretation and assessment that would need to take place to judge whether they are met. They are also mainly focused on individuals rather than organisations.

We have drawn up a suggested set of principles to consider when developing a policy or process for good governance and reducing organisational conflicts of interest based on good practice examples, research evidence and the Nolan principles. These are:

- Alignment between goals, values, policy & practice

- Independence

- Transparency

- Accountability

An example of how these principles can be used to test interactions and engagement follows in the next section. It includes an example risk assessment process, which assists assessment of interactions against these principles.

Other sets of principles could be used and examples from existing organisational policies are included in the glossary.

NOLAN PRINCIPLES:
Selflessness
Integrity
Objectivity
Accountability
Openness
Honesty
Leadership

Selflessness: Holders of public office *should act solely in terms of the public interest.* In considering whether an action is 'solely' in the 'public interest' in relation to, for example, a decision about whether to work with a marketing agency who are offering pro bono support for a public health campaign but have worked previously and significantly for HFSS food companies, an assessment would need to be made weighing up the risks to public interest against the potential benefits.

As outlined in the introduction, being clear about your organisational policy's overarching purpose will be important. These documents are written based on the overarching purpose being to improve population health and wellbeing so will need to be adapted if your guiding purpose differs from this.

3. Processes for risk assessment & mitigation & trade-off

The examples here are based on good practice from public health specific work, so will need adapting if you are going to develop policy that is broader than focusing on organisational conflicts of interest that may affect ability to promote public health.

We anticipate that most decisions about these trade-offs could eventually be made by whoever is the responsible officer. However, initially it may be helpful to have a group to review decisions whilst the process and policy are new. Longer-term, this group could be called in to review more difficult decisions. This group should be internal; however it may sometimes be helpful to seek external input for example from relevant academics or organisations dedicated to exposing hidden funding or influence. Any such input should be kept separate from the decision-making process.

Exclusions:

We recommend that your risk assessment process starts by setting out your organisation's exclusionary criteria with a straightforward yes / no to the question 'Does the organisation meet any of the exclusion criteria'

Examples of exclusion criteria are:

- Specific practices (eg 'known to be complicit in human rights abuses' or 'known to have lobbied to delay or oppose implementation of public health measures, treaties and laws, breaches of government conventions or tax avoidance' etc)

- Specific industries (eg tobacco manufacturers as outlined in the Framework Convention on Tobacco Control) and their front groups (see supporting evidence for international frameworks and guidance on specific industries and broadly to prevent policy capture)

You then need a short section to cover the following:

- If the organisation meets an exclusion criterion, is the interaction a required one? (for example inspections or regulation).

- If so, how can the interaction be documented and kept transparent? For further examples of how to do this related to tobacco and alcohol see the supporting evidence for this section.

Risk assessment for all other interactions.

Your policy / process will then need to have a process to risk-assess all other interactions that don't meet the exclusionary criteria. We have suggested one below.

If your good governance policy / process wishes to differentiate between different sizes or levels of interaction or engagement, you could consider making the depth of risk assessment dependent on the type of interaction. It will be important to consider how to ensure that any differentiation does not open up routes for unwished for covert influence.

The World Health Organisation Framework Convention on Tobacco Control (FCTC) is the world's first global health treaty. It is designed to help countries work to eliminate the harm caused by tobacco. Article 5.3 is a key element of the treaty. It is intended to protect public health policy from the influence of the tobacco industry. It reads: 'In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.'

A toolkit has been developed by ASH to support local public health implementation of Article 5.3 of the WHO FCTC. It includes specific guidance for trading standards teams on managing required interactions in ways that comply with the FCTC. A link to this section, along with similar guidance for HMRC staff, is in the supporting evidence for this section.
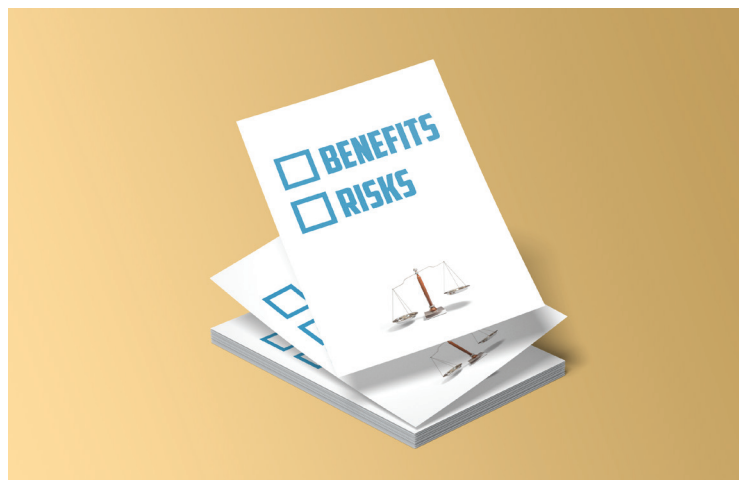
PRINCIPLE	QUESTIONS TO CONSIDER

ALIGNMENT BETWEEN GOALS, VALUES, POLICY AND PRACTICE	**About the organisation you are potentially interacting with**
	• Are the organisation's core activities and enacted values compatible with public health goals?
	• Are their wider policies and practices (including support, funding or close links with other organisations) compatible with public health goals?
	
	About the potential interaction
	• What are the aims of the interaction? (are they aligned with public health goals & values?)
	• Why is the interaction occurring?
	• Is there a specific reason for the interaction taking place or is it ad hoc (eg a one-to-one meeting – see the glossary on types of interaction and supporting evidence section 3 for further information about long-term relationship building)?
	• Who makes the decisions about the interaction?
	   – are their intentions and responsibilities aligned with public health goals? (intentions and responsibilities should not be assumed to be as they are stated –
	• a judgement call will need to be made)
	   – What qualifies them to make such decisions (eg expert by experience, public health training etc)
	• Does the interaction meet the test that it improves public health and is an effective use of resources (bearing in mind opportunity cost and evidence base, risks and benefits)
	• What are the potential benefit ? (see checklist below for egs)
	• What are the risks? (see checklist below for egs)

INDEPENDENCE	Is the interaction compatible with the organisation's remit and statutory functions? It should not compromise integrity, independence or credibility (see supporting evidence at the end of this section)
TRANSPARENCY	Does the interaction make adequate provision for: • transparency? (are there any restrictions / limitations on communications or recording taking? Extent and terms of engagement should be open, risks and benefits should have been weighed up and communicated – as proportionate to the decision and interaction) • independent monitoring and evaluation?
ACCOUNTABILITY	• Is it clear who is accountable and for what? • What are the methods for scrutiny? • Will there be public communication of the independent monitoring and evaluation? (as proportionate to the engagement)

A more detailed set of questions is available in the Lancet series: https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(23)00012-0/fulltext

You could develop risk & benefit checklists (like the following) to assist with making a risk / benefit trade-off. As above, you may decide this should be more or less detailed depending on the size and level of interaction.

For all risks and benefits, consider how interactions potentially benefit or risk your over-arching principle for this work (for example: improving the health and wellbeing of local residents). As outlined in the introduction, for some local authorities, improving the health and wellbeing of its residents is a core value that it has been agreed will guide actions across the organisation. In these cases, this is a good candidate for an overarching principle against which to assess risks and benefits - boiling down to the questions, "What are the potential benefits to resident health and wellbeing?" and "What are the potential risks to resident health and wellbeing?" Other local authorities may not explicitly prioritise resident health and wellbeing above other strategic aims. If this is the case, it is important to explore how this work relates back to the organisation's core strategic values - such as giving all residents a fair chance in life, or making the local authority a great place to live, work and study.

An example of a risk-benefit trade off can be seen in the decision to implement the TfL advertising policy. Although in practice there has not been a reduction in income, at the point the decision was made there was a risk of this. Decisions like this need to be weighed up against potential health benefits and reduced costs associated with responding to health need.

Benefits checklist

- Impact: does the interaction increase the organisation's ability to improve and protect public health?

- Reach and networks: does the interaction increase access to credible and respected networks, communities and diverse audiences that are likely to contribute to our ability to improve and protect public health?

- Knowledge and expertise: does the interaction give us access to knowledge or expertise that are likely to contribute to our ability to improve and protect public health?

- Are any interventions / approaches proposed as part of the interaction effective? (what does the evidence say? are they preventative? Do they meet public health goals?)

- Resources and financial commitment

Risks checklist

- Does the interaction create direct harm (to the population's health)?

- Does it normalise acceptance of harm / individual responsibility etc?

- How is the problem being defined and framed?

- Does it create dependence? For example, dependence on another organisation for expertise, funding or other resources. It is also worth thinking about less direct forms of dependence, for example, if a charity who is funded by an industry is delivering an intervention and then funding is stopped, is the local authority expected to pick up the funding?

- Is it a PR 'win' for an industry that contributes to health harms ('healthwashing')? – think about how the organisation will describe the interaction / how they are permitted to describe it if thinking about mitigations

- Are evidence-based / more effective / more preventative approaches being displaced? What's the opportunity cost?

- Is it more or less beneficial than doing nothing?

- Does it create risks for the organisation in terms of
  - reputation?
  - independence?
  - integrity? (eg Does it provide perceived endorsement to a health-harming organisation?

- And/or is there an actual bias / conflict

Your policy should then advise that once risks and benefits have been considered, it is important to think through:

- Are there alternatives that may achieve the benefits (or some of them) without as many risks?

- What mitigations could be put in place to reduce the risks?

- Do you have a quick exit strategy that won't incur substantial cost if the risks are higher and/or benefits are lower than expected?

Transparency
During the development of Canada's food guidelines, a new process was used with a commitment to formal and transparent consultation, to avoid conflict of interest, officials did not meet with food and drink industry representatives. Instead, online consultations were open to all stakeholders, including industry.
https://www.canada.ca/en/health-canada/services/canada-food-guide/about/revision-process.html#a4

4. Options for what to do once a conflict / potential conflict has been identified and assessed

Identifying and assessing conflicts / potential conflicts is just the start. It is really important that an organisational policy guides people about what to do next – whether that is continuing with activity whilst minimising risks or taking steps to stop the influence or interaction as completely as possible. A suggested set of responses for action following the identification and assessment of a potential or actual organisational conflict of interest are shown below. These have been developed on the basis of examples of good practice (see references at the end for acknowledgements). The detail of what your organisation would consider to fall into each of these categories is a matter for organisational policy. Active decision making on the basis of explicit consideration of the risks and benefits is part of good governance.

- **Exclusions:** some interactions / organisations may be automatically part of your organisation's exclusion criteria. Declaring and monitoring approaches that would form exclusions could be considered and a transparency approach (including documentation) developed for those mandated interactions for the purposes of carrying out statutory duties only.

- **High / moderate risk interactions:** in these cases, there will need to be a process to determine the risk / benefit trade-off (potentially using the risk assessment process and risks and benefits checklists above) and decisions to proceed with interactions, will need to be accompanied by processes for scrutiny and transparency such as declaring and monitoring the conflict. It is likely your policy will have to guide people to choose from the following options:
  - Do not proceed with the interaction because risks outweigh benefit
  - If already engaged, put in place a plan to cease / change the interaction (in some cases there may be contractual reasons why it is not possible to change or cease interactions immediately)
  - Plan mitigations to reduce harm, and manage it transparently
  - In some cases, it will not be possible to fully mitigate the harm, but the organisation may decide the benefits outweigh the harms, in this case the interaction may continue, accepting the residual harm after any mitigations on the basis of the trade-off or the benefits.

- **Minimal risk interactions:** in cases where the risk is determined to be minimal comparable to the benefit, your policy will need to recommend processes for scrutiny and transparency such as declaring and monitoring the conflict (documentation processes such as public registers can be considered – see the example from Canada on the page above), whilst proceeding with the interaction.

Conclusion

If you are struggling to make progress, we recommend:

- Start by setting some minimum standards and normalising thinking and talking about organisational conflicts of interest transparently

- Where is there consensus about things that are 'always' or 'never' ok? Can you start here and build up?

- Have a safety-net process such as a review group or committee to manage grey areas

- Use a principle of 'if in doubt, check it out' – make it clear that anything is welcomed by giving illustrative examples.

Section 5: Supporting evidence

There is a body of evidence documenting the ways in which industry can harm health
main reference: https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(23)00013-2/fulltext

There are also examples of how interactions can compromise organisational integrity, independence or credibility. See the FAQs and section 2 supporting evidence *for more detailed references.*

EXISTING FRAMEWORKS AND GUIDANCE FOR SPECIFIC INDUSTRIES

Whilst you may wish to start broadly rather than focusing on specific industries, it is important to be aware of the existing obligations local authorities have regarding tobacco control, as well as the national and international guidance that exists for some specific industries and could be amended for other industries. For example, the former PHE principles for engaging with industry stakeholders adapted the WHO guidelines on alcohol to apply to the gambling industry.

TOBACCO

Framework Convention on Tobacco Control

The UK has committed to its obligations under the Framework Convention on Tobacco Control and this obligation extends to local government. This recognises in its key principles

> *'a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests.'*

See ASH toolkit for more information on **implementing Article 5.3 of the Framework Convention on Tobacco Control** https://ash.org.uk/resources/local-toolkit/toolkit-article-5-3-of-the-who-framework-convention-on-tobacco-control

Specifically, regarding the text in the main section above *'it is also important to be clear about the kinds of interactions that fulfil statutory or regulatory duties (such as monitoring or inspections). Article 5.3 of the Framework Convention on Tobacco Control sets out the requirements for this type of interaction with the tobacco industry and it may be helpful to consider how this is used for other industries.'* See the section on trading standards: https://ash.org.uk/uploads/Guidance-for-Trading-Standards-on-WHO-FCTC-5.3-May-2023.pdf?v=1686579387

There is also similar practical guidance for HMRC staff on how to comply with the FCTC requirements. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/844161/Article_5_3_guidance_v3_6_FINAL_External.pdf

ALCOHOL

The World Health Organisation's Global Alcohol Action Plan includes the following principle:

> *'Protection from commercial interests. The development of public policies to reduce the harmful use of alcohol should be protected, in accordance with national laws, from commercial and other vested interests that can interfere with and undermine public health objectives.'*

The former PHE principles for engaging with industry stakeholders adopted this and the WHO definition of the alcohol industry and limited 'nature of its engagement with the alcohol industry to a dialogue and exchange of information, for achieving positive outcomes for public health.' It also prohibited direct or indirect funding and required following WHO recommendations for meetings including:

- Ensuring clear purpose

- Full transparency

- At least 2 members of staff

- Seeking advice from advisory group before engagement.

GENERAL APPROACH TO PREVENTING POLICY CAPTURE

This OECD report demonstrates how 'policy capture' can 'exacerbate inequalities and undermine democratic values, economic growth and trust in government.' It explores the ways in which policy capture happens and the potential consequences and impacts. It also 'provides guidance for policy makers on how to mitigate these risks through four complementary strategies: engaging stakeholders with diverging interests; ensuring transparency and access to information; promoting accountability; and identifying and mitigating the risk of capture through organisational integrity policies.'

Policy capture definition from the document: 'where public decisions over policies are consistently or repeatedly directed away from the public interest towards a specific interest.' https://www.oecd.org/governance/preventing-policy-capture-9789264065239-en.htm

NOLAN PRINCIPLES

In the UK, the Nolan principles for public life are often used as the basis of good governance and ethical practice. Local authorities may wish to use these principles to underpin their organisational policy.

https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2

As outlined above, these are focused more on preventing individual conflicts of interest or preventing individual COI from causing organisational COI. The following table draws out alignment between the Nolan principles and our suggested principles for an organisational COI policy / process.

PRINCIPLE	KEY POINTS FROM DEFINITION	CONSIDERATION IN ORGANISATIONAL COI POLICY / PROCESS
SELFLESSNESS	Act solely in terms of the public interest	In considering whether an action is 'solely' in the 'public interest' an assessment will often need to be made weighing up risks to public interest against potential benefits. This connects with the principle of alignment between goals, values, policy & practice
INTEGRITY	Avoid placing themselves under any obligation…that might try inappropriately to influence them in their work…declare and resolve any interests and relationships	This supports the principle that undue influence from vested interests should be minimised It also places a requirement to take action to resolve as well as declare any interests
OBJECTIVITY	Act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias	This aligns with the principles of independence and alignment
ACCOUNTABILITY	Accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this	This is a direct read across to the accountability principle
OPENNESS	Act and take decisions in an open and transparent manner	This aligns with the transparency principle
HONESTY	Be truthful	This supports all the other principles
LEADERSHIP	Actively promote and robustly support the principles	This supports the idea of developing and implementing and actively monitoring effectiveness of an organisational COI policy or process.

DEVELOPMENT OF THIS SECTION OF THE TOOLKIT

The suggested set of principles to consider when developing a policy or process for good governance and reducing organisational conflicts of interest, the risk assessment example, the risks and benefits checklists and the options for how to proceed when you identify a conflict a e all based on good practice examples including:

- ICARA: https://www.icara.info/wp-content/uploads/2020/02/ICARA-Guidelines-Relnships-w-Vested-Interests-Final-2019-1.pdf

- NCD Alliance: https://ncdalliance.org/sites/default/fi es/NCDA%20Organisational%20Confl ct%20of%20Interest%20Policy_Version%20May_2022.pdf

- Former PHE principles for engaging with industry stakeholders: https://www.gov.uk/government/publications/principles-for-engaging-with-industry-stakeholders/principles-for-engaging-with-industry-stakeholders

- SPECTRUM: https://era.ed.ac.uk/bitstream/handle/1842/38820/SPECTRUM_Interests_and_interactions_policy_202204.pdf?sequence=3&isAllowed=y

- WHO Framework for engagement with non-state actors: https://www.who.int/about/collaboration/non-state-actors

- PAHO WHO roadmap: https://www.paho.org/en/documents/preventing-and-managing-conflict_-interest-country-level-nutrition-programs-roadmap

- iMARK: https://alcoholforum.org/i-mark/
- ASH: https://ash.org.uk/resources/local-toolkit/toolkit-article-5-3-of-the-who-framework-convention-on-tobacco-control
- The Good Governance institute: https://www.good-governance.org.uk/publications/insights/the-nolan-principles#_ftn1

The evidence underpinning the **suggested set of principles** to consider when developing a policy or process for good governance and reducing organisational conflicts of interest, the **risk assessment example** and the **risks and benefits checklists** includes:
– https://bmjopen.bmj.com/content/10/7/e034082#T1
– https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(23)00012-0/fulltext
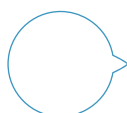
Section 6
FAQs

6. FAQs

In this section, you will find some questions that people expect to be asked, this is followed by some quick lines to respond. Under each of these there is an option to click through and see more detailed discussion of the points, and evidence to support the points made.

QUESTION ## Loss of funding / what will you do instead of taking this funding?

- There's no direct loss of funding from developing a good governance policy. It may be that as a result of identifying organisational conflicts of interest, you choose not to take funding or adopt positions as an organisation that could affect funding generation. The point of the policy is to encourage explicit consideration of any trade-offs made between risks and benefits.

- A COI policy exists to protect residents from indirectly footing the bill for business PR - whether this cost comes in public money and council time spent on something that benefits businesses more than residents, or later down the line in residents' health and wellbeing. As such, although in the short-term it may seem like there is a loss of funding, over the longer term the public health gains may be much greater.
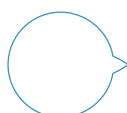
FOR MORE DETAIL & SPECIFIC EVIDENCE

QUESTION ## Reputational / Media Coverage

For example if the policy, or decisions taken as a result of the policy, are portrayed in a local paper as either anti-business or as pro-industry over health.
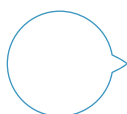
- Stakeholders strongly advised having a media strategy built in from the start. It is not possible to control media coverage, however you can be clear on why you're doing this and the value to local communities, and ensure you are clear up front about how you will explain this to your residents.

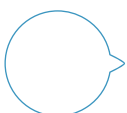FOR MORE DETAIL & SPECIFIC EVIDENCE

QUESTION What about all the jobs?

1. A good cross-council policy will ensure fair and clearly expressed expectations for all businesses in the area. See more

2. This policy covers council interactions, influence and how you do business. The introduction of such a policy in itself is unlikely to result in job losses in the short-term. See more

3. Longer-term, if this is going to disadvantage specific industries (for example those promoting health-harming products), the council will be more able to make explicit decisions about trade-offs with a policy in place. See more

4. People shouldn't have to choose between health-harming jobs and no jobs. It's the responsibility of local government to try to create an environment where those aren't the only options people are being given. See more

FOR MORE DETAIL & SPECIFIC EVIDENCE

**QUESTION** Industry have expertise that we might miss out on

1. Expertise is important and so are intention, motivation and responsibility. See more

2. Recognise the expertise that already exists within your organisation. See more

3. A good governance / organisational conflict of interest policy does not preclude seeking industry input or partnership where the benefits of industry expertise outweigh the risks. See more

4. A prominent policy signals values that are important to you - for businesses that share these values, this may make you more attractive for collaboration and the sharing of expertise. See more

FOR MORE DETAIL & SPECIFIC EVIDENCE

QUESTION We are independent from industry, why won't you work with us? / talk to us etc

1. It is important to differentiate between organisations that are independent from those that claim independence. Please see below for more information on what "independence" means.

2. Although partnership working can be very important for public health, it is important to consider the purpose of partnership and whether it is effective at achieving that purpose. See more
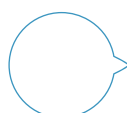
FOR MORE DETAIL & SPECIFIC EVIDENCE
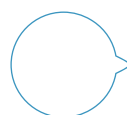
QUESTION   Legal / process challenges

1. Think about who the current processes benefit - levelling the playing field may mean businesses who want to improve the health of the population are not disadvantaged by playing by the rules. See more.

2. If any challenge does emerge, it is more likely to do so as a result of implementing any policy (rather than producing a policy), but also beware of chilling effect - distinguish between threatened and actual challenges. See more.

3. You may want to collaborate with other local authorities on this - shared legal resource, shared legitimacy.
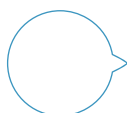
FOR MORE DETAIL & SPECIFIC EVIDENCE

QUESTION   It's very well to care about residents' health, but what about the economy?
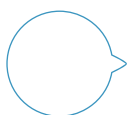
1. The evidence suggests that people's health and wellbeing is improved through inclusive or wellbeing economies - those that are designed to serve the needs of people and planet. Good governance policy & practice should support your council's long-term strategic objectives and help build the type of local economy your council wants for your residents. See more

2. A good cross-council policy will ensure fair and clearly expressed expectations for all businesses in the area. See more

3. This policy covers council interactions, influence and how you do business. The introduction of such a policy in itself is unlikely to negatively affect the economy in the short-term. See more (ref Jobs section above)

4. Longer-term, if this is going to disadvantage specific industries (for example those promoting health-harming products), the council will be more able to make explicit decisions about trade-offs with a policy in place. See more (ref Jobs section above)

5. People shouldn't have to choose between health-harming jobs and no jobs. It's our responsibility as local government to try to create an environment where those aren't the only options people are being given. See more (ref Jobs section above)

FOR MORE DETAIL & SPECIFIC EVIDENCE

QUESTION ## But if we aren't in the room then how can we expect to influence or make change?

1. This approach, as set out in the WHO Framework Convention on Tobacco Control, is that public health policy operates without the tobacco industry 'in the room'. Tobacco control policy is widely regarded as stronger because of this approach and smoking rates in the UK have fallen substantially as a result of strong policies brought in without the tobacco industry 'in the room.' See more.

2. There are different methods of influencing and achieving change. Often characterised as 'insider' and 'outsider.' See more.

3. It is important to consider whether partnerships are effective. See more – ref partnership above.

4. The point of the policy is to encourage explicit consideration of any trade-offs made between risks and benefits of different interactions as well as to give guidance on how to manage interactions in consistent ways (including transparency considerations). See more.

5. It does not preclude being 'in the room' where the benefits of direct engagement and interaction outweigh the risks. See more – ref industry expertise above.
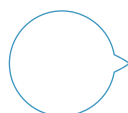
FOR MORE DETAIL & SPECIFIC EVIDENCE

6. FAQs

In this section, you will find some questions that people expect to be asked, this is followed by some quick lines to respond. Under each of these there is an expanded section - where you will see more detailed discussion of the points and evidence to support the points made. You can click links to return to the summary FAQs.

QUESTION

Loss of funding / what will you do instead of taking this funding?

- There's no direct loss of funding from developing a good governance policy. It may be that as a result of identifying organisational conflicts of interest, you choose not to take funding or adopt positions as an organisation that could affect funding generation. The point of the policy is to encourage explicit consideration of any trade-offs made between risks and benefits.

- A COI policy exists to protect residents from indirectly footing the bill for business PR - whether this cost comes in public money and council time spent on something that benefits businesses more than residents, or later down the line in residents' health and wellbeing. As such, although in the short-term it may seem like there is a loss of funding, over the longer term the public health gains may be much greater

RETURN TO FAQS

1. We believe it is **unlikely that organisations will threaten to withdraw resources** directly because of introducing a good governance / organisational conflict of interest policy. See more

2. Some policies have **not so far led to a reduction in funding**. See more

3. Some policies **may lead to a loss of resource**, however the resource was **likely to be ineffective**/had the potential to cause harm. See more

4. Some policies **may lead to a loss of resource that had real benefits as well as real costs**, but the organisational policy allows you to make a clear and explicit calculation of the trade-off. See more

1. Withdrawal of resource threat

We are not aware of any evidence on how likely it is that an organisation would threaten to withdraw or actually withdraw funding because of an organisation developing a policy on good governance and managing conflicts of interest. Different people we consulted have different views, but the consensus was that threatened or real withdrawal of funding and support was less likely to happen at this stage than when specific issues were being considered as a result of the policy. If it does happen, then you need to decide as a council what you value - it's about making the decision explicitly.

2. TFL evidence

Transport for London reported that its advertising policy has not led to a loss of funding: https://the-media-leader.com/tfl-ad-revenues-unscathed-by-junk-food-ban/ and https://content.tfl.gov.uk/advertising-report-2018-20-acc.pdf

The benefits from this policy are expected to be substantial: a control study demonstrated the policy led to a reduction in calories purchased with associated reductions in purchases of fat, saturated fat and sugar: https://journals.plos.org/plosmedicine/article?id=10.1371/journal. pmed.1003915 the effects of these reductions is modelled in this study which estimates that that the Transport for London policy was estimated to have resulted in 94,867 (4.8%) fewer individuals with obesity, and to reduce incidence of diabetes and cardiovascular disease by 2,857 and 1,915 cases respectively within three years post intervention.

The policy would produce an estimated 16,394 additional quality-adjusted life-years and save £218m in NHS and social care costs over the lifetime of the current population. Greater benefits (eg a 37% higher gain in quality-adjusted life-years) were expected to accrue to individuals from the most socioeconomically deprived groups compared to the least deprived https://ijbnpa.biomedcentral.com/articles/10.1186/s12966-022-01331-y

3. Education evidence

For example, if a local area chooses to stop using industry funded education materials in schools, they may not have the funding to provide an alternative. However, the resources may have been ineffective in improving the health of young people and may in fact risk causing harm.

Analysis of the types of youth education programmes supported by harmful industries found that these materials:

•   normalise those industries' products and their position in society;
•   distort the evidence on risks of harm;
•   cast children, young people, their choices, peers, and behaviours as the problem;
•   adopt personal responsibility framings that echo industry-promoted narratives;
•   focus on individual-level or technological solutions.

Ref: https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667(22)00341-3/fulltext

Analysis of the effects of independent vs industry-sponsored messaging about the harms of fossil fuels, smoking, alcohol, and sugar sweetened beverages found that exposure to industry-sponsored messages led to greater reported uncertainty or false certainty about risk, compared to non-industry messages. Ref: https://www.sciencedirect.com/science/article/pii/S2352827321002846?via%3Dihub

4. Example of Trade-off

Local sporting opportunities for children and young people often accept sponsorship in the form of both monetary donations and payment in kind (for instance the use of facilities or grounds owned by another organisation). Different councils will make different decisions about what support they will accept for their own programmes - most are unlikely to accept sponsorship from British American Tobacco, while few are likely to refuse the use of their local football team's grounds, but different priorities may yield different results when it comes to partnering with a local fast food chain.

The advantage of having a clear policy in place for this kind of decision is that it allows the council to evaluate the real benefits and harms of different sources of sponsorship, and to re-evaluate this over time in a structured way. It will also help to clarify threatened vs realised trade offs: a popular local programme may be able to attract new sponsorship easily, mitigating the threatened costs of losing a sponsor.
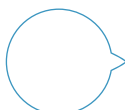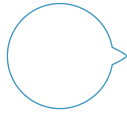
RETURN TO FAQS

QUESTION Reputational / Media Coverage

For example if the policy, or decisions taken as a result of the policy, are portrayed in a local paper as either anti-business or as pro-industry over health.

- Stakeholders strongly advised having a media strategy built in from the start. It is not possible to control media coverage, however you can be clear on why you're doing this and the value to local communities, and ensure you are clear up front about how you will explain this to your residents.

RETURN TO FAQS

The media coverage of the decision by Public Health England to partner with DrinkAware is an example of reporting on decision-making about working with industry-funded organisations, see for example: https://www.bbc.co.uk/news/health-45502974

See Section 2 and Section 4 for specific benefits and evidence. For guidance on framing external communications, see:

- Values based messaging work from Common Cause: https://www.commoncause.com.au/values-based-messaging

- Healthy Persuasion from Common Cause & Vic Health https://www.commoncause.com.au/healthy-persuasion-message-guide

QUESTION What about all the jobs?

1. A good cross-council policy will ensure fair and clearly expressed expectations for all businesses in the area. See more

2. This policy covers council interactions, influence and how you do business. The introduction of such a policy in itself is unlikely to result in job losses in the short-term. See more

3. Longer-term, if this is going to disadvantage specific industries (or example those promoting health-harming products), the council will be more able to make explicit decisions about trade-offs with a policy in place. See more

4. People shouldn't have to choose between health-harming jobs and no jobs. It's the responsibility of local government to try to create an environment where those aren't the only options people are being given. See more
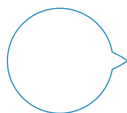
RETURN TO FAQS

1. Expectations for all businesses

A good governance / organisational conflict of interest policy may be portrayed by its critics as detrimental to business and economic growth because it adds 'unnecessary' burdens to business activities or does not reflect the way that business is 'really' done. It is up to local authorities to decide for themselves how to balance the need for transparency and good governance against a lack of friction for the activities of the private economy. A good cross-council policy should help to reduce some burden on business by ensuring fair and clearly expressed expectations on interactions, and may level the playing field by ensuring businesses without close ties to the council have an equal voice in council decisions.

2. Short-term effects

In the short-term, any effects this policy has on the local economy are unlikely to be job-harming. However, loss of influence, advertising opportunities, or other partnership benefits may indeed have knock-on effects on jobs in some industries. The question local government must ask is: If this is going to disadvantage specific industries (for example those promoting health-harming products), how does this sit within the context of the local government duty to protect the health of the resident population and responsibility to risk-proof economic future?

3. Longer Term

The more prominent a clear policy is, the more it will signal to businesses the values and ways of operating that are important to the council. This allows businesses to flex their model/s and could lead to more health-promoting ways of working.

The evidence on work and health suggests that 'good work' (suitable pay, hours, contract and protections) is a major social determinant of health, however precarious work contributes to health inequalities (https://www.instituteofhealthequity.org/resources-reports/fair-society-healthy-lives-the-marmot-review/fair-society-healthy-lives-full-report-pdf.pdf). Review level evidence demonstrates the negative effects of unstable employment on workers' health; with increased stress and lack of control identified as important factors (https://www.annualreviews.org/doi/10.1146/annurev-publhealth-032013-182500).

Some of this is about levelling the playing field. Where some have used informal influence and access to gain advantage, this is about shifting to an open and transparent approach, which should be neutral on overall economic activity. If a business's mode of operation is reliant on conflicts of interest continuing, we need to ask hard questions about what this means for the business's feasibility and economic viability - and the balance of harms / good to our population.

4. Health-harming or no jobs

People shouldn't have to choose between health-harming jobs and no jobs. It's our responsibility as local government to try to create an environment where those aren't the only options people are being given – there's a difference between individual power and local government power, and what we're talking about here is what local government can do to change the landscape in which individuals operate.

Local government responsibilities in economic development - where we are transitioning away from health-harming products, it is local government's responsibility to future-proof its economy. What are we doing to offer skills development to the people reliant on that industry for jobs? What is our strategy to ensure that there are good alternatives available to our local population? This needs to be planned and managed, not knee-jerk - we need to be alive to the fact that industries producing health-harming products are higher risk industries to work in because of the potential for being regulated away. We need to get ahead of this and build our local economy to be more health promoting.
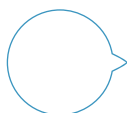
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QUESTION # Industry have expertise that we might miss out on

1. Expertise is important and so are intention, motivation and responsibility. <u>See more</u>

2. Recognise the expertise that already exists within your organisation. <u>See more</u>

3. A good governance / organisational conflict of interest policy does not preclude seeking industry input or partnership where the benefits of industry expertise outweigh the risks. <u>See more</u>

4. A prominent policy signals values that are important to you - for businesses that share these values, this may make you more attractive for collaboration and the sharing of expertise. <u>See more</u>
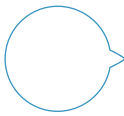
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1 & 2. Expertise, intention, motivation and responsibility

Expertise is important and so are intention, motivation and responsibility. Public health staff are trained to protect the health of the public and also have a statutory duty to do so. Industries may have some relevant expertise to contribute but they are not accountable for population health and their responsibility to shareholders may be at odds with it.

Where industries have expertise that is relevant to some public health associated activity, this can be extremely useful (eg the technical aspects of building cycle lanes or improving the cold- and hot-weather resilience of local homes, or industry-specific insight into sales and spending). However this also needs to be balanced with what academics describe as the 'inherent risks in discussing the health-promoting elements of a commercial entity (ie, the entity might claim these elements compensate for other harmful behaviours or might use them as tools of distraction).' That is: a business may use this opportunity to influence in its favour as well as provide information or insight. ref: <u>https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(23)00012-0/fulltext</u>

When evaluating the need for or benefit of commercial expertise, it is important to consider whether the profit motive for an organisation aligns with the public health goals. Relevant expertise that is used to aim at a different goal could be actively harmful. For example, expertise in behavioural psychology, marketing and 'nudge' theory appears to have been used by the alcohol industry to 'undermine the information on alcohol harms that they disseminate, and may normalize or encourage alcohol consumption.' <u>https://onlinelibrary.wiley.com/doi/full/10.1111/1468-0009.12475</u>

We can also consider the mitigations that can be put in place - for example separating out implementation expertise from involvement in policy direction.

Recognise the expertise that already exists within your organisation. When thinking about expertise that is being offered or concerns about missing out, consider the relevance of the expertise within your organisation. Local government, both directly and through its partnerships, has strong understanding of its local population and insight into its residents' lives. There are also strong communications teams with relevant experience and expertise and highly trained public health staff who can support with shaping health.

3. Where benefits outweigh risks

It is also important to recognise that a good governance / organisational conflict of interest policy does not preclude seeking industry input or partnership where the benefits of industry expertise do outweigh the risks. Losing expertise conveyed through informal and non-transparent routes as part of an exchange of influence and access does not mean losing expertise conveyed through transparent and clearly boundaried stakeholder consultations, or through closer partnerships that meet the council's criteria for benefits and risks.

> Examples that may come up are of organisations where key personnel sit on the board of an industry-funded organisation.

4. Prominent policy

As outlined above, the more prominent a clear policy is, the more it will signal to businesses the values and ways of operating that are important to the council. This may make you more attractive for collaboration and the sharing of expertise to businesses that share your values. It also makes it clear to all parties what to expect and who else is likely to be around the table.
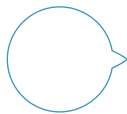
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QUESTION

We are independent from industry, why won't you work with us? / talk to us etc

1. It is important to differentiate between organisations that are independent from those that claim independence. Please see below for more information on what "independence" means.

2. Although partnership working can be very important for public health, it is important to consider the purpose of partnership and whether it is effective at achieving that purpose. See more

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Industry-funded organisations that claim 'independence' such as Drink Aware and GambleAware have a well-documented history of seeking to advance industry interests by normalising consumption, promoting anti-regulation narratives, and focusing time and policy attention on ineffective solutions. This behaviour is so common that academics who study these organisations have even given them a collective name – SAPROs, or Social Aspect Public Relations Organisations - and found clear patterns of tactics across multiple industries.

It is important that any good governance policy recognises the inherent conflict of interest in other organisations who are funded by an industry but claim to be independent of it.

1. What is independence?

WHO's framework for engagement with non-state actors (ie organisations that are not within the public sector) states that 'An entity is "at arm's length" from another entity if it is independent from the other entity, does not take instructions and is clearly not influenced or clearly not reasonably perceived to be influenced in its decisions and work by the other entity.' All aspects of this definition must be in place for an organisation to be considered independent:

• Independence

• Not taking instructions

• Clearly not influenced

• Clearly not reasonably perceived to be influenced

In the context of public health, and for the purposes of this document, independence requires having structures in place that help to establish and protect an organisation's independence from others (such as operational or financial independence) and that organisations act independently to benefit and protect the public's interest and not the commercial interests of a harmful industry.

It's important to understand that in general, independence is a complex and dynamic concept, meaning that there is no one definition or form of independence and it is something that must be constantly assessed and maintained as contexts and relationships change and as different challenges and issues arise. It is not something that can be simply self-declared or stated on a website. It is based on people's perception and assessment of an individual or organisation as having independence (of a particular form) and acting independently.

In order to define independence, it is also important to define industry. With regard to the tobacco industry, where there is the most clarity about what constitutes industry and therefore how independence can be defined, ASH's toolkit on the World Health Organisation's Framework Convention on Tobacco Control states that Article 1 of the FCTC defines the tobacco industry as "tobacco manufacturers, wholesale distributors and importers of tobacco products". This includes, but is not limited to:

- *Organisations or individuals with commercial or vested interests in the tobacco industry*

- *Those that receive funding from the tobacco industry*

- *Those that work to further the interests of the tobacco industry, including organisations with directors from the tobacco industry*

- *Tobacco growers*

- *Associations or other entities representing any of the above*

- *Industry lobbyists*

The way in which the WHO define what constitutes the alcohol industry is another helpful definition and was adapted to cover gambling in the former PHE principles for engaging with industry stakeholders. This covers:

- *Manufacturers, wholesale distributors, major retailers and importers that deal solely and exclusively in [commodity eg alcoholic beverages], or whose primary income comes from trade in [commodity].*

- *Business associations or other non-State actors representing, or funded largely by, any of the aforementioned entities, as well as industry lobbyists and commercial interests in [commodity] trade other than above when the interaction with WHO can be linked to their interests in alcohol beverage trade.*

- *Other non-State actors who receive funding from the industry(including funding for research) or have considerable links to the above-mentioned entities should be reviewed on an ad hoc basis in order to determine whether they should also be viewed as '[commodity] industry'*

2. Partnership working considerations

Although partnership working can be very important for public health, it is important to consider the purpose of partnership and whether it is effective at achieving that purpose. For example:

- A review into the evidence of effectiveness of public-private partnerships found that in 36 studies evaluating 25 partnerships, 'evaluations that were favourable to the use of PPPs in health promotion were more frequently classed as "not independent" and of poor quality. On the other hand, negative evaluations were more common when the PPP involved a private partner with a high potential for competition between the health promotion activity undertaken and their financial interests'. https://bmcpublichealth. biomedcentral.com/articles/10.1186/s12889-019-7765-2

- An evaluation of the 'Responsibility Deal' suggested that it did not result in much added value to government due to most pledges already being planned. https://www.sciencedirect. com/science/article/abs/pii/S0168851015002171?via%3Dihub

- A study of negotiations over a calorie reduction 'pledge' within the Public Health Responsibility Deal explores how more informal governance approaches prioritised commercial interests over public health: https://www.research.ed.ac.uk/en/publications/the-informal-governance-of-public-private-partnerships-in-uk-obes

In considering partnership, having a policy that clearly sets out principles and how to assess risks and benefits will assist local authorities in determining whether the benefit of specific partnerships outweigh the risks.

It is government's role to govern. We cannot and should not devolve this responsibility and accountability to anyone else.
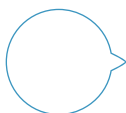
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QUESTION   Legal / process challenges

1. Think about who the current processes benefit - levelling the playing field may mean businesses who want to improve the health of the population are not disadvantaged by playing by the rules. See more.

2. If any challenge does emerge, it is more likely to do so as a result of implementing any policy (rather than producing a policy), but also beware of chilling effect - distinguish between threatened and actual challenges. See more.

3. You may want to collaborate with other local authorities on this - shared legal resource, shared legitimacy.
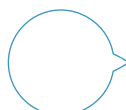
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1. Who Benefits?

The eventual policy may take a more or less permissive view on informal influence. However, to ensure the policy genuinely reflects the democratic priorities for good governance, and not the priorities of people who have historically had influence, the process for determining this policy should be carefully managed to avoid informal influence.

This is necessary to ensure that it genuinely reflects the democratic priorities of good governance, and not the priorities of those who have historically had influence and seek to retain it (see How to and not to involve industry stakeholders). Those who currently enjoy informal influence and access are least likely to want change and most likely to be able to prevent change through exactly these routes - levelling the playing field may mean businesses who want to improve the health of the population are not disadvantaged by playing by the rules.

In an example from regulation looking at the USA's introduction of a new Occupational Safety & Health Administration silica standard

> '...some employers and employer organizations...testified that they welcomed the standard. Many were already working to keep silica exposures below the proposed standard, and they didn't enjoy being at a financial disadvantage when competing with employers who put their profits above the health of their employees.'

Chapter 'Deadly Dust' from the Book The Triumph of Doubt by David Michaels (Oxford University Press 2020) partly about his time as Assistant Secretary of Labor for the OSHA

i.e. regulation gives competition a level playing field – not undercut by those who profit at any expense.

2. Challenge

For national and international level it is well known that legal challenges take place. Locally, it is considered less likely that legal challenges would be brought for the development or production of policy, but challenges may be put forward to specific aspects of putting the policy into practice: there are known local legal challenges on advertising policy for example. We need to be aware in advance of this risk but at the same time it is important to avoid the 'chilling effect' of being too risk averse (people avoid taking action because of risk / threat which may never materialise).

You may wish to collaborate with other local authorities on this - shared legal resource can reduce costs and shared approaches will build confidence and mitigate risk.

References:

- Delays in enacting policy and taking up time that could have been spent on other issues, see for example on Minimum Unit Pricing: https://euppublishing.com/doi/full/10.3366/scot.2020.0304

- Chilling effects, see for example: https://tobaccocontrol.bmj.com/content/23/1/e1 and https://read.dukeupress.edu/jhppl/article/41/5/969/13835/A-Corporate-Veto-on-Health-Policy-Global?casa_token=Exx7QXaPFc4AAAAA:paHfXu6HUqgu0RMCspRzQc2u8-xwwUb_6f15_CaNIHhJQpUsq4Y1bHFomHy73uJzCNWRWb8

- For further information about intensified opposition by the Tobacco Industry to tobacco control in the wake of the FCTC see Puska P, Daube M, WHO FCTC Impact Assessment Expert Group, Impact assessment of the WHO Framework Convention on Tobacco Control: introduction, general findings and discussion, Tobacco Control 2019;28:s81-s83. https://tobaccocontrol.bmj.com/content/28/Suppl_2/s81
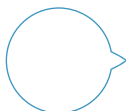
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QUESTION   It's very well to care about residents' health, but what about the economy?

1. The evidence suggests that people's health and wellbeing is improved through inclusive or wellbeing economies - those that are designed to serve the needs of people and planet. Good governance policy & practice should support your council's long-term strategic objectives and help build the type of local economy your council wants for your residents. See more

2. A good cross-council policy will ensure fair and clearly expressed expectations for all businesses in the area. See more

3. This policy covers council interactions, influence and how you do business. The introduction of such a policy in itself is unlikely to negatively affect the economy in the short-term. See more (ref Jobs section above)

4. Longer-term, if this is going to disadvantage specific industries (for example those promoting health-harming products), the council will be more able to make explicit decisions about trade-offs with a policy in place. See more (ref Jobs section above)

5. People shouldn't have to choose between health-harming jobs and no jobs. It's our responsibility as local government to try to create an environment where those aren't the only options people are being given. See more (ref Jobs section above)

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1. Evidence for Health & Economy

The evidence suggests that people's health and wellbeing is improved through inclusive or wellbeing economies - those that are designed to serve the needs of people and planet.

'economies that support social cohesion, equity and participation; ensure environmental sustainability; and promote access to goods and services which support health, while restricting access to those that do not.'

Good governance policy & practice should support your council's long-term strategic objectives and help build the type of local economy your council wants for your residents. It could explicitly help with the second part of this definition 'promoting access to goods and services which support health, while restricting access to those that do not.'

Suggested strategies to consider:

• Develop confidence in delivering clear, consistent messages about the type of economy you want for your residents - there are links to messaging from the Wellbeing Economy Alliance in the key evidence below.

• Develop clear, concise messages about how your good governance policy supports your economic development strategy (ensuring that it does!)

• Ensure that the discussion separates out smaller local businesses and larger chains or (inter)national companies - policies that reduce undue influence from larger businesses may even the playing field for smaller local businesses.

Key evidence:

- See the Health Foundation's report for a summary of the evidence and key interventions available to local authorities: https://reader.health.org.uk/using-economic-development-to-improve-health-and-reduce-he/executive-summary

- See Lancet article (Panel 2) for summary of state of evidence in terms of economic interventions for improving population health: https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196(22)00063-8/fulltext
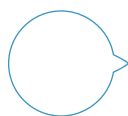
- See Wellbeing Economy Alliance for short explainers and resources for explaining inclusive and wellbeing economies in plan English and using film clips and visuals as well as text: https://weall.org/
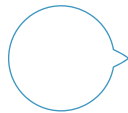
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QUESTION But if we aren't in the room then how can we expect to influence or make change?

1. It is accepted that public health policy should be protected from the vested interests of the Tobacco Industry. This approach, as set out in the WHO Framework Convention on Tobacco Control, is that public health policy operates without the tobacco industry 'in the room'. Tobacco control policy is widely regarded as stronger because of this approach and smoking rates in the UK have fallen substantially as a result of strong policies brought in without the tobacco industry 'in the room.' See more.

2. There are different methods of influencing and achieving change. Often characterised as 'insider' and 'outsider' See more .

3. It is important to consider whether partnerships are effective. See more ref Partnership above.

4. The point of the policy is to encourage explicit consideration of any trade-offs made between risks and benefits of different interactions as well as to give guidance on how to manage interactions in consistent ways (including transparency considerations). See more

5. It does not preclude being 'in the room' where the benefits of direct engagement and interaction outweigh the risks. See more – ref industry expertise above.

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1. Article 5.3 on the Framework Convention on Tobacco Control

The World Health Organisation Framework Convention on Tobacco Control (FCTC) is the world's first global health treaty. It is designed to help countries work to eliminate the harm caused by tobacco. Article 5.3 is a key element of the treaty. It is intended to protect public health policy from the influence of the tobacco industry. It reads:

> 'In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.'

A toolkit has been developed by ASH to support local public health implementation of Article 5.3 of the WHO FCTC, see: https://ash.org.uk/resources/local-toolkit/toolkit-article-5-3-of-the-who-framework-convention-on-tobacco-control

2. Effectiveness of the FCTC & Article 5.3

Impact assessment of the FCTC suggests it has contributed to improvements in tobacco control, albeit with variance in policy gains and across countries. There is also variability in success in robust implementation – especially with regard to article 5.3. Although it 'has been important in many countries in restricting tobacco industry efforts to undermine tobacco control implementation.' It is suggested that the FCTC has helped broaden action beyond health departments.

Puska P, Daube M, WHO FCTC Impact Assessment Expert Group, Impact assessment of the WHO Framework Convention on Tobacco Control: introduction, general findings and discussion, Tobacco Control 2019;28:s81-s83. https://tobaccocontrol.bmj.com/content/28/Suppl_2/s81

An analysis of implementation of the FCTC suggests that *'implementation of key WHO FCTC demand-reduction measures is significantly associated with lower smoking prevalence, with anticipated future reductions in tobacco-related morbidity and mortality.'*

Implementation of key demand-reduction measures of the WHO Framework Convention on Tobacco Control and change in smoking prevalence in 126 countries: an association study, Gravely, Giovino, et al, the Lancet Public Health, 2017, https://doi.org/10.1016/S2468-2667(17)30045-2

Different methods for influencing and achieving change

See this article example for an exploration of 'insider' and 'outsider' approaches and their effectiveness in different situations within the covid pandemic: https://www.frontiersin.org/articles/10.3389/fpos.2021.624068/full

Managing interactions consistently

See earlier in this document for more information:

- Section 3: for managing interactions in consistent ways

- Section 5: for risk/benefit assessments and options for what to do once a conflict is identified
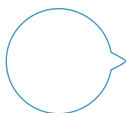
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Section 7
Glossary &
Use of Terms

7. Glossary & Use of Terms

This document explains how we define and use key words and phrases that come up throughout this set of materials. It also explains why we have chosen to use these words and phrases, and signposts to other terms you might come across for the same or similar concepts. In some cases, we have also included a variety of definitions from key sources for your reference.

- Good governance

- Conflicts of interest: individual and organisational

- Interaction / types of interaction

- Informal influence

- Private sector / industry stakeholders

- Independence

- Principles for good governance

....

GOOD GOVERNANCE

....

In brief: The policies, processes and practices through which the direction and aims of an organisation are established and achieved.

We have used the term 'good governance' to refer to the policies, processes and practices through which the direction and aims of an organisation are established and achieved. In choosing to refer to good governance, we are intentionally signalling and emphasising the positive approach that we are aiming towards.

> *'Good governance…makes it easier to do the right thing, and harder to do the wrong thing.'*
> *Professor Andrew Corbett-Nolan*

The Chartered Institute of Governance defines governance as follows (emphasis is ours)

> 'In some ways, it is easiest to identify what governance is not. It is not audit, bureaucracy or business efficiency. Nor is it democracy, social science or populism. And it does not solely concern itself with the processes of decision-making or reporting. So, what is it? The word derives from the Greek verb kubernaein [kubernáo] **meaning 'to steer'.'**

As this implies, governance is a high-level activity concerned with long-term plans, purpose and impact. Governance is about how organisations are led and run. Governance is a system that places specific responsibility to maximise the chance of an organisation's aims being achieved while at the same time having duties towards all of that organisation's stakeholders. https://www.good-governance.org.uk/publications/insights/making-it-easy-to-do-the-right-thing

A note of caution: our definition includes developing robust structures and processes to safeguard decision-making, policy development and the direction of the organisation from vested interests, however there is a risk that this terminology could be co-opted by others arguing for the opposite - research has established that the tobacco industry lobbied to 'ensure that corporations would be included in European policy discussions and formally consulted early in policymaking processes.' As the article highlights, 'Article 5.3 makes it clear that necessary consultation can still take place as long as it is transparent and accountable' but it is important to be aware that challenges may be raised to suggest that there is a tension between good governance and organisations making their own decisions about how consultation will take place. ref: Tobacco industry attempts to undermine Article 5.3 and the "good governance" trap, Smith, Gilmore, Fooks, Collin & Weishaar, 2009, BMJ. https://tobaccocontrol.bmj.com/content/18/6/509

It is also worth clearly distinguishing between external organisations influencing the development of ideas, policy and strategy and being consulted on the implementation of council-developed policy. Section 3 covers this in more detail.

CONFLICT OF INTEREST: INDIVIDUAL AND ORGANISATIONAL CONFLICTS OF INTEREST

Individual conflict of interest in brief: Where an individual's independence, judgement or actions have the potential to be unduly influenced by a secondary interest.

Organisational conflict of interest in brief: Where an organisation's primary aims, independence, judgement or actions have the potential to be unduly influenced by another body whose interests are in conflict with the organisation's purpose or duties.

We recognise that most people think of individual level conflicts when they hear or use the term 'conflict of interest' and that many policies focus narrowly on this. This set of materials is concerned with situations arising that may conflict with an organisation's purpose and duties. We have therefore used the phrase 'organisational conflict of interest' to emphasise the difference. Individual level conflicts a e also relevant so far as they pertain to the organisational.

We define **conflict of interest** as follows (adapted from the WHO definition

'a conflict of interest arises in circumstances where there is potential for a secondary interest to unduly influence, or where it may be reasonably perceived to unduly influence, either the independence or objectivity of professional judgement or actions regarding a primary interest (the organisation's work). The existence of conflict of interest in all its forms does not as such mean that improper action has occurred, but rather the risk of such improper action occurring. Conflicts of interest are not only financial, but can take other forms as well.'

We define **organisational conflict of interest** as follows (adapted from WHO / SPECTRUM / NCD Alliance)

An organisational conflict of interest arises in circumstances where there is potential for an organisation's primary aims (as reflected in its constitution or purpose and statutory duties) or independence and objectivity, to be unduly influenced (or reasonably perceived to be unduly influenced) by the conflicting interest of another organisation, group or individual.

OTHER DEFINITIONS YOU MAY WISH TO REVIEW ARE BELOW.

WHO's Framework of engagement with non-State actors in paragraph 22 states that

'a conflict of interest arises in circumstances where there is potential for a secondary interest (a vested interest in the outcome of WHO's work in a given area) to unduly influence, or where it may be reasonably perceived to unduly influence, either the independence or objectivity of professional judgement or actions regarding a primary interest (WHO's work). The existence of conflict of interest in all its forms does not as such mean that improper action has occurred, but rather the risk of such improper action occurring. Conflicts of interest are not only financial, but can take other forms as well'

The former **PHE principles for engaging with industry stakeholders** defines conflicts of interest as

'an inability to contribute impartially to a programme of work, research, governance or oversight

functions.' **SPECTRUM** research consortium definitions are:

A conflict of interest arises in circumstances where there is potential that professional judgment or actions regarding a primary interest (e.g. SPECTRUM's work) will be unduly influenced, or may reasonably be perceived to be unduly influenced, by a secondary interest. A potential or actual conflict of interest may also pose a reputational risk for SPECTRUM. Conflicts of interest can be of a financial or non-financial nature or both, and may exist at the individual or institutional level.

"Individual Conflict of Interest" A conflict as defined above involving an individual that may actually, or reasonably be perceived by others in the public health community to unduly impair or unfairly influence their professional judgement when executing their role within the Consortium.

"Institutional Conflict of Interest" A circumstance, situation or interaction as defined above involving a SPECTRUM member organisation or affiliate and an external organisation that may actually, or reasonably be perceived by others in the public health community to: a) Unduly influence SPECTRUM's primary aim and objectives and/or b) Unduly influence the independence and objectivity of SPECTRUM's work.

NCD Alliance's definitions are:

A conflict of interest (COI) arises in circumstances where an organisation or member of an organisation is susceptible to pressures that might compromise their primary duty. COI occurs when a secondary interest (a vested interest in the outcome of the organisation's work) unduly influences either the independence or objectivity of professional judgement or actions regarding the organisation's primary interest. The existence of COI in all its forms does not necessarily mean that improper action has occurred, but rather that there is risk of improper action occurring. COI is not only financial but can take other forms as well.

An organisational COI describes a situation where an organisation's primary interest, as reflected in its constitution, may be unduly influenced by the conflicting interest of another actor (UN agency, government, private sector, NGO, academia) in a way that affects, or may reasonably be perceived to affect, the independence and objectivity of the organisation's work.

An individual COI can involve officials affiliated to the organisation, for example board members, staff, or volunteers. Individuals may experience a conflict if a private interest (financial, personal, or other non-governmental interest or commitment) interferes—or appears to interfere—with their ability to act impartially, discharge their functions or regulate their conduct in the sole interests of the NCD Alliance. A COI does not necessarily mean that the individual involved is actually conflicted: the perception of a COI alone may create a negative image. As referenced above, NCDA has an individual COI policy and declaration process.

TYPES OF INTERACTION / ENGAGEMENT

In brief: There are many different types of interaction and engagement to consider - below are a number of different frameworks to use when thinking about them.

WHO's handbook on engaging with non-state actors defines engagement as covering

- Participation: attending meetings or events, being involved in consultations
- Resources: financial or in-kind contributions
- Evidence: development of evidence, information sharing
- Advocacy
- Technical collaboration

It is important to note that engagement can include both longer-term collaborations and much briefer interactions such as meetings or conversations.

SOME EXAMPLES OF HOW DIFFERENT ORGANISATIONS HAVE DEFINED TYPES OF INTERACTION FOLLOW.

SPECTRUM policy:

Interactions occur on a daily basis, may be scheduled or unscheduled and are a source of a potential conflict. In this policy this term relates to any active participation in work-related communication or contact via email, phone or in person, including via a third party.

The **NCD Alliance**'s policy distinguishes between the following types of interactions:

- Formal partnerships
  - With a financial relationship
  - With an in-kind relationship
- Transactional engagements (eg sponsorship for a one-off event)
- Grant relationships
- Membership
- Member of a coalition or network
- Informal collaboration with another organisation or group or individual to influence policies or corporate practices and behaviour

INFORMAL INFLUENCE

Informal influence is used to refer to the influence that individuals and organisations may wield outside of formal structures and processes.

CORPORATE POLITICAL ACTIVITY

In brief: efforts by the private sector (and private sector influenced stakeholders) to influence political process.

This is covered in the Lancet series – see supporting evidence for section 2.

The Policy Dystopia model is one framework for explaining corporate political activity which was developed through analysis of the tobacco industry and demonstrates some of the mechanisms by which industry affects political process. Ulucanlar, S et al, 2015
https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002125

Political Analysis of Corporate Political Activity (PACPA) is another that integrates political science and public health methods. Gomes, E, 2022 https://www.sciencedirect.com/science/article/abs/pii/S0277953622002374?via%3Dihub

PRIVATE SECTOR / INDUSTRY / NON-STATE ACTORS

We have used the following terms

Private sector: organisations operating with the primary goal of making a profi . Other terms used in other contexts could be 'for-profit sector' or 'commercial actors'

Private sector activities or practices: activities or practices of organisations operating with the primary goal of making a profit. Other terms used in other contexts could be 'industry practices' or 'commercial practices'

Industry: when we are referring to specific sectors within the private sector (for example the alcohol industry) - for more information on what constitutes the 'industry' see the definitions of independen e section

Private sector and private sector influenced stakeholders: this encompasses both for-profit and not-for-profit organisations and groups as well as loose groups and those affiliated with organisations and companies where there is substantial influence from the private sector

Unhealthy commodity industries: we have used the definition from the SPECTRUM research consortium's policy 'this term is used to collectively refer to companies who manufacture, produce, process, distribute, import, sell and/or market other products or services, (including any company that derives significant revenues from producing, selling or marketing such products or services) that could be considered detrimental to physical or mental health and, as a result, profit from their sale.'

Choice of terms used

We have mostly used the terminology of 'private sector' and 'industry' because this is what we considered most likely to be familiar language in local government public health teams. This is perhaps not as precise as the terminology of 'actors' (which is used in academic literature) in reflecting that loose groups and those affiliated with organisations and companies may also be considered. Occasionally, especially when quoting directly, other terms are used and we wanted to alert people to the use of different terms so that colleagues wishing to read more about this area know what may be used in different contexts.

OTHER DEFINITIONS:

The former **PHE principles for engaging with industry stakeholders** defines unhealthy commodity industry stakeholders as

'for-profit and commercial enterprises and businesses that deliver commercial products that lead to significant associated negative health consequences. For this document, these include tobacco, alcohol, gambling and some food and drink stakeholders. They include manufacturers, distributors, retailers, importers and those whose primary income comes from trade in these products.'

The definition also includes entities that are dependent on funding and support from these industries, such as business associations or other non-state actors representing or funded largely by any of the previously outlined entities, as well as:

- industry lobbyists
- coalitions
- corporate philanthropic foundations
- charities
- social aspect organisations
- Other non-state actors who receive funding from these industries (including funding for research) or have considerable links to the entities described above, should be reviewed whenever necessary, to determine whether they should be viewed as 'industry'.

....

INDEPENDENCE
....

In brief: As well as providing a framework for organisational independence, this section also discusses which bodies it is important to be independent from.

WHO's framework for engagement with non-state actors (ie organisations that are not within the public sector) states that 'An entity is "at arm's length" from another entity if it is independent from the other entity, does not take instructions and is clearly not influenced or clearly not reasonably perceived to be influenced in its decisions and work by the other entity.' All aspects of this definition must be in p ace for an organisation to be considered independent:

- Independence
- Not taking instructions
- Clearly not influenced
- Clearly not reasonably perceived to be influenced

In the context of public health and for the purposes of this document, independence requires having structures in place that help to establish and protect an organisation's independence from others (such as operational or financial independence) and that organisations act independently to benefit and protect the public's interest and not the commercial interests of a harmful industry.

It's important to understand that in general, independence is a complex and dynamic concept, meaning that there is no one definition or form of independence and it is something that must be constantly assessed and maintained as contexts and relationships change and as different challenges and issues arise. It is not something that can be simply self-declared or stated on a website. It based on people's perception and assessment of an individual or organisation as *having* independence (of a particular form) and *acting* independently.

In order to assess individual or organisational independence, it is also important to define industry. With regard to the tobacco industry, where there is the most clarity about what constitutes industry and therefore how independence can be defined, ASH's toolkit on the World Health Organisation's Framework Convention on Tobacco Control states that Article 1 of the FCTC defines the tobacco industry as 'tobacco manufacturers, wholesale distributors and importers of tobacco products'. This includes, but is not limited to:

• organisations or individuals with commercial or vested interests in the tobacco industry

• those that receive funding from the tobacco industry

• those that work to further the interests of the tobacco industry, including organisations with directors from the tobacco industry

• tobacco growers

• associations or other entities representing any of the above

• industry lobbyists

The way in which the **WHO** define what constitutes the alcohol industry is another helpful definition and was adapted to cover gambling in the former PHE principles for engaging with industry stakeholders. This covers:

• manufacturers, wholesale distributors, major retailers and importers that deal solely and exclusively in [commodity eg alcoholic beverages], or whose primary income comes from trade in [commodity].

• Business associations or other non-State actors representing, or funded largely by, any of the aforementioned entities, as well as industry lobbyists and commercial interests in [commodity] trade other than above when the interaction with WHO can be linked to their interests in alcohol beverage trade.

• Other non-State actors who receive funding from the industry (including funding for research) or have considerable links to the above-mentioned entities should be reviewed on an ad hoc basis in order to determine whether they should also be viewed as '[commodity] industry'

PRINCIPLES FOR GOOD GOVERNANCE FOCUSED ON COMMERCIAL INTERACTIONS AND INFLUENCE

In brief: Good governance helps organisations to meet their goals in an accountable, transparent, fair and responsible manner. Organisations should explicitly state and refer back to their priorities and principles so that it is clear what the good governance policies, processes and practices are intended to support.

It is important to set out a guiding purpose or set of principles for your good governance policy or processes.

As stated in the introduction, it is assumed throughout this set of materials that the overarching purpose for the development of a good governance policy or process is to improve the health of the local population. Some local authorities may not explicitly prioritise resident health and wellbeing above other strategic aims. If this is the case, it is important to explore how this work relates back to the organisation's core strategic values - such as giving all residents a fair chance in life, or making the local authority a great place to live, work and study to set out the overarching guiding purpose for your work.

Once a guiding purpose is established, it should then serve as a check-in for people developing the policy/process and once the policy/process is in place it should again be the overarching check for decision-making. For example 'does allowing/accepting/doing X help us to improve the health of our local population?'

OTHER EXAMPLES

Examples of overarching principles from other organisations are shown below for comparison.

Former PHE principles for engaging with industry stakeholders referred to 'efforts to improve public health.'

NCD Alliance

• Shared commitment to NCDA's vision of making NCD prevention and control a priority everywhere;

• Potential for impact aligned with NCDA's priorities and opportunities for NCDA to expand its influence, scope and audience;

• Shared commitment to the principles of good development practice and ethical corporate practice, as well as compatibility with NCDA's culture of management and operations;

• Recognition of the need for the protection of NCDA's reputation, name, impartiality, independence and brand;

Good Governance Toolkit

• Respect for each entity's achievements, stage of development and circumstances;

• Shared commitment to collaboration, with active and positive collaboration in all areas of work;

• Transparency and honesty in dealings with each other, with mutual conviction to an open exchange of information, dialogue, cooperation and collaboration;

• Readiness to be accountable to each other because of shared goals.

GOOD GOVERNANCE TOOLKIT

Brook & Körner (2024)