Information relating to Points 1&2

- 1. Copies of all correspondence between the office of the Permanent Secretary and any member of the staff or officials of the National Infrastructure Commission for Wales (NICW), dating from 18th October 2023 to the present date. This request pertains specifically to discussions or references regarding the registration of interests of commission members.
- 2. All internal correspondence within the Welsh Government relating to the aforementioned matter during the same period.

1.

From: Permanent Secretary's Private Office

Sent: Wednesday, October 18, 2023 3:42 PM

To: Director of Propriety and Ethics

Subject: RE: Investigation into Conflict of Interest Concerning NICW Commissioner

Hi

How are you? I hope all is well.

We were wondering if you would be able to provide us with advice on how we should proceed with the complaint below please?

Many thanks,



From: Complaint

Sent: Wednesday, October 18, 2023 11:43 AM **To:** Permanent Secretary's Private Office

Subject: Re: Investigation into Conflict of Interest Concerning NICW Commissioner

Permanent Secretary

Welsh Government

Cathays Park

Cardiff

CF10 3NQ

Dear

Re: Investigation into Conflict of Interest Concerning NICW Commissioner

I write to you with serious concerns regarding the conduct of NICW Commissioner, a member of the National Infrastructure Commission for Wales (NICW) and a lobbyist at Deryn Consulting. There exists a clear and concerning conflict of interest that I believe warrants immediate investigation.

NICW Commissioners' appointment to the NICW was announced on 28th June 2022. While this is a matter of public record, what is less transparent is his ongoing role as a lobbyist for renewable energy clients at Deryn Consulting. It is particularly alarming that the NICW register of interests discloses his work for Statkraft, Wind2, and RWE via Deryn, but neither the Deryn website nor the Welsh Government website reveals his dual roles.

This opaque situation has reached an alarming point:

- 1. Was Deputy Minister aware of NICW Commissioner role at Deryn when he was appointed to the NICW?
- 2. Was the First Minister aware of NICW Commissioner role at Deryn when he approved his appointment to the NICW?
- 3. Did NICW Commissioner declare his role at Deryn to both Deputy Minister and the First Minister prior to his appointment?

Moreover, in the NICW meeting on 24th January 2023, NICW Commissioner was assigned to lead on consultation responses for the 'Transition to Net Zero.' There was no declaration of his commercial relationships with RWE and Statkraft during this meeting. In the same meeting, NICW Commissioner received the first draft of Net Zero Strategy Research by ARUP—again without any declaration of interest.

I urge you to initiate a comprehensive investigation into NICW Commissioner appointments and declarations. The investigation should also scrutinise how NICW Commissioner came to be appointed, especially given these glaring conflicts of interest. It is also concerning that notes of NICW meetings have not been updated since January 2023, raising further questions about non-disclosed interests.

I look forward to your prompt action in this matter. Transparency and integrity in public roles are of paramount importance, and the current situation undermines public trust.

Yours sincerely,

Complaint

cc: First Minister

2.

From: Director of Propriety and Ethics

Sent: Wednesday, October 18, 2023 3:53 PM

To: Permanent Secretary's Private Office

Subject: RE: Investigation into Conflict of Interest Concerning NICW Commissioner

Thanks these allegations of a conflict with one of our appointees to an armslength body need to be looked at to see if there is substance to them and I suggest that the right people to ask to do that are the Public Bodies Unit. So I suggest that you should send it to them for advice but please copy me in because I will be happy to help them if needed.



From: Permanent Secretary's Private Office

Sent: Wednesday, October 18, 2023 4:36 PM

To: Public Bodies Unit

Subject: FW: Investigation into Conflict of Interest Concerning NICW Commissioner

Hi

I hope you are well.

Would you be able to provide us with advice on the e-mail below please?

Many thanks,



From: Public Bodies Unit

Sent: Friday, October 20, 2023 9:56 AM

To: Permanent Secretary's Private Office

Subject: RE: Investigation into Conflict of Interest Concerning NICW Commissioner

Hi

I'd advise that you send the original complaint to the partnership team as they drafted advice to the Minister about the appointment. I've had a quick look on ishare and I can

see that Deryn Consulting was mentioned on the application form and it also appears on the conflict of interest register.

Register of Interests for National Infrastructure Commission for Wales (NICW) Commissioners (gov.wales)

is the contact in the partnership team.

Kind regards



5.

From: Permanent Secretary's Private Office

Sent: 20 October 2023 10:15

To: NICW Secretariat

Subject:FW: Investigation into Conflict of Interest Concerning NICW Commissioner

Attachments: RE: FoI/REQ/COOG/Ministerial correspondence (19182)

Hi

Please see e-mail below from Complaint. Are you able to provide advice please on how we should proceed on behalf of the Permanent Secretary? A separate FOI has also been submitted which is attached for information.

Many thanks,



6.

From: NICW Secretariat

Sent: Friday, October 20, 2023 10:40 AM

To: Public Bodies Unit 2

Subject: FW: Investigation into Conflict of Interest Concerning NICW Commissioner

Hi

I hope you are well?

I wonder if you might be able to assist me in answering this query from the Permanent Secretary's office?

We are getting the website updated ASAP with the latest meeting notes and CoI declaration forms. However, I would like some advice on how I handle the response if possible please.

Best wishes



7.

From: Public Bodies Unit 2

Sent: Friday, October 20, 2023 2:20 PM

To: NICW Secretariat

Subject: RE: Investigation into Conflict of Interest Concerning NICW Commissioner



It is the Chair's responsibility to manage conflicts of interest in the Commission, and there is no requirement for a conflict to be restated if it is recorded in the Conflicts of Interest Register.

Public Bodies Unit undertook some research on the Commission's Register of Interests and discovered Deryn Consultancy featured in both the application form and in the Commission's Conflict of Interest Register.

It will be for the Chair to consider the complaint which has been made, and to assure you, the Additional Accounting Officer and the Principal Accounting Officer the conflict has been properly recorded and mitigations are in place to deal with the conflict- real or perceived.

Guidance from the Office of the Commissioner for Public Appointments suggests potential conflicts should be discussed at interview stage so you will need to consider that dimension, too.

Happy to discuss.

Best wishes.



8.

From: NICW Secretariat

Sent: Friday, October 20, 2023 3:00 PM

To: Public Bodies Unit 2

Subject: RE: Investigation into Conflict of Interest Concerning NICW Commissioner

Thanks

I will chat with the Chair.

For information, there was no interview stage for these roles as the DMCC wished to expedite the process.

Best wishes



9.

From: NICW Secretariat

Sent: Friday, October 20, 2023 3:21 PM

To: NICW Chair

Subject: Complaint Email

Attachment: See attachment 1

Hello

Further to our conversation earlier, please find below the wording of the complaint received.

Having received advice from the Public Appointments Unit, they have advised: "It will be for the Chair to consider the complaint which has been made, and to assure you, the Additional Accounting Officer and the Principal Accounting Officer the conflict has been properly recorded and mitigations are in place to deal with the conflict-real or perceived."

With this is mind, I have drafted the attached which includes some information from you, which I hope you will find helpful. Please could you have a look at it and let me know if you are happy with the content, or amend as you see fit. I will then take further advice here before briefing the Permanent Secretary's office.

I am on leave on Monday, so there is no immediate need to reply.

Best wishes



10.

From: NICW Secretariat

Sent: Friday, October 20, 2023 3:33 PM

To: Director of Climate Change, Energy and Planning; Deputy Director - Planning

Subject: FW: Investigation into Conflict of Interest Concerning NICW Commissioner



Just making you aware of this. I am in touch with the Public Bodies Unit and NICW Chair on getting a response together.

It would be good to have a discussion on this and other NICW related issues at some point soon.

Best wishes



11.

From: NICW Secretariat

Sent: Wednesday, October 25, 2023 11:28 AM

To: Director of Climate Change, Energy and Planning

Subject: FW: Complaint Email

Attachment: See attachment 1

12.

From: Director of Climate Change, Energy and Planning

Sent: Wednesday, October 25, 2023 11:56 AM

To: NICW Secretariat

Subject: RE: Complaint Email

Thanks

I would leave out the 'I believe....' sentence

Thanks



13.

From: NICW Chair

Sent: Monday, October 30, 2023 3:40 PM

To: NICW Secretariat

Subject: *confidential* Complaint about NICW Commissioner

Attachment: See attachment 2

Hi

I've talked to NICW Commissioner about a perceived conflict of interest. Here are my thoughts. I'd be grateful if you could pass on to Permanent Secretary.

Thanks,



14.

From: NICW Secretariat

Sent: Monday, October 30, 2023 4:01 PM

To: Public Bodies Unit 1 and Public Bodies Unit 2

Subject: Complaint - NICW Commissioner - NICW

Attachment: See attachment 2



As advised last week (in attached email), I discussed the complaint against NICW Commissioner with the Chair of the National Infrastructure Commission for Wales. His response is attached.

I would be grateful if you could advise me on next steps. Would this be sufficient to send back to Permanent Secretary's Private Office (the original recipient of the complaint)? I would also like to copy this to the Private Offices of the First Minister and Deputy Minister for Climate Change.

The Chair has also asked if it would be wise to advise NICW Commisioner of the complaint and share with him the Chair's response.

Best wishes



15.

From: Public Bodies Unit 2

Sent: Wednesday, November 1, 2023 9:55 AM

To: NICW Secretariat

Subject: RE: Complaint - NICW Commissioner - NICW



Thank you.

My view, shared by and and are and, is you should forward the Chair's response to the Permanent Secretary, and this should include a draft, setting out the process undertaken since the original

correspondence and the actions and conclusions of the Chair, for the Permanent Secretary to send to the original correspondent.

You should copy in all copy recipients to that note to the Permanent Secretary.

Happy to discuss.

Best wishes.



16.

From: NICW Secretariat

Sent: Wednesday, November 1, 2023 1:54 PM
To: Director of Climate Change, Energy and Planning

Subject: NICW Commissioner Complaint

Attachment: See attachment 3



Would you mind looking over this draft letter from the PS to the complainant re NICW Commissioner, before I send it up?

Many thanks



17.

From: Director of Climate Change, Energy and Planning

Sent: Thursday, November 2, 2023 9:11 AM

To: NICW Secretariat

Subject: Re: NICW Commissioner Complaint

Morning

You will see that I'm suggesting a slightly different tack with the letter. You will see that I am suggesting a slightly narrower focus on the actual complaints

What do you think?

If this works for you should we run it past Public Bodies Unit 2 and co. And the Chair?



From: NICW Secretariat

Sent: Thursday, November 2, 2023 9:35 AM

To: Director of Climate Change, Energy and Planning

Subject: RE: NICW Commissioner Complaint

Thanks

I'll run it past Public Bodies Unit 2.

Best wishes



19.

From: NICW Secretariat

Sent: Thursday, November 2, 2023 9:35 AM

To: Public Bodies Unit 2

Subject: RE: Complaint - NICW Commissioner - NICW

Attachment: See attachment 4



Sorry to bother you again. I originally drafted a lengthy response letter from the Permanent Secretary but Director of Climate Change, Energy and Planning has suggested a more streamline response, attached.

Could you cast your eye over it please?

Thanks in advance, best wishes



20.

From: Public Bodies Unit 2

Sent: Thursday, November 2, 2023 10:19 AM

To: NICW Secretariat

Subject: FW: Complaint - NICW Commissioner - NICW



I finally got in and offer some thoughts for your consideration.

Happy to discuss.

Best wishes.



21.

From: NICW Secretariat

Sent: Thursday, November 2, 2023 11:22 AM

To: Public Bodies Unit 2

Subject: RE: Complaint - NICW Commissioner - NICW

Thank you

This is very helpful.

Best wishes



22.

From: NICW Secretariat

Sent: Thursday, November 2, 2023 11:29 AM

To: Permanent Secretary's Private Office

Subject: RE: Investigation into Conflict of Interest Concerning NICW Commissioner

Attachment: See attachment 2 and 4



Thank you for email.

In response to the complaint I have liaised with the Public Bodies Unit (PBU) and the Chair of the National Infrastructure Commission for Wales (NICW). The official response from Chair is attached to this email.

I have also drafted a response, in consultation with Director of Climate Change, Energy and Planning and PBU, for the Permanent Secretary to consider and issue on appropriate letterheads. I would be grateful to receive a copy of the response once it has been issued.

I understand the FOI request is being progressed separately by colleagues in the Cabinet Division.

Should you require any other information or would like to discuss further, please let me know.

Best wishes



23.

From: Permanent Secretary's Private Office Sent: Thursday, November 2, 2023 2:12 PM To: NICW Secretariat; Public Bodies Unit 2

Subject: RE: Investigation into Conflict of Interest Concerning NICW Commissioner



The Permanent Secretary is happy with this but has asked us to confirm that PBU are happy at the level of personal information we are giving – he has commented: despite the claim and investigation, we are still presenting individual issues around a person and their recruitment – The information helps to explain, but just because it has been asked doesn't mean we should fully answer at a personal level and one response could be to just reassure the complainant that things are in order and declared etc.

Grateful for your advice/views.

Many thanks,



24.

From: Public Bodies Unit 2

Sent: Thursday, November 2, 2023 2:49 PM

To: NICW Secretariat

Subject: FW: Investigation into Conflict of Interest Concerning NICW Commissioner

Attachment: See attachment 4



Revised draft as promised.

Happy to discuss.

Best wishes.



25.

From: NICW Secretariat

Sent: Thursday, November 2, 2023 3:27 PM **To:** Permanent Secretary's Private Office

Subject: RE: Investigation into Conflict of Interest Concerning NICW Commissioner

Attachment: See attachment 4



With grateful thanks to the response has now been amended. Please see attached.

Best wishes



26.

From: Permanent Secretary's Private Office Sent: Friday, November 3, 2023 2:49 PM To: Public Bodies Unit 2;NICW Secretariat

Subject: RE: Investigation into Conflict of Interest Concerning NICW Commissioner

Thanks

Can I double check that PBU are happy with the letter?

Many thanks,



27.

From: Public Bodies Unit 2

Sent: Friday, November 3, 2023 3:00 PM

To: Permanent Secretary's Private Office; NICW Secretariat

Subject: RE: Investigation into Conflict of Interest Concerning NICW Commissioner



PBU is content with the letter.

Best wishes.



28.

From: Permanent Secretary's Private Office Sent: Friday, November 3, 2023 3:54 PM

To: NICW Secretariat

Subject: RE: Investigation into Conflict of Interest Concerning NICW Commissioner

Attachment: See attachment 4



Thank you for drafting this.

Attached is the revised response which the Permanent Secretary has cleared. I will send this to



Many thanks,



29.

From: Permanent Secretary's Private Office

Sent: Tuesday, November 7, 2023 9:08 AM

To: NICW Secretariat

Subject: FW: Investigation into Conflict of Interest



We have received the response below from Complaint, grateful for your advice on how we proceed? Many thanks,



From: Complaint

Sent: Friday, November 3, 2023 6:57 PM

To: Permanent Secretary's Private Office

Subject: Re: Investigation into Conflict of Interest

Dear Permanent Secretary

Thank you for your letter dated 03 November 2023 concerning the appointment processes and conflict of interest management within the National Infrastructure Commission for Wales (NICW).

I must express that your response does not satisfactorily address the central concerns raised in my initial correspondence. While procedural details regarding appointments and general statements about conflict of interest management have been outlined, my specific concerns remain unaddressed.

The crux of the issue lies in the potential conflict of interest arising from NICW Commissioner's dual roles with NICW and Deryn Consulting. There remains a need for clarity on:

- Whether NICW Commissioner disclosed his consultancy role and his clients at Deryn to the Deputy Minister for Climate Change prior to his appointment.
- The specific measures taken to manage NICW Commissioners' involvement in discussions and decisions that may benefit his clients at Deryn.
- The actual involvement of NICW Commissioner in NICW meetings discussing policy areas directly impacting his clients and whether he recused himself from such discussions.

The updated register of interests and meeting notes, while necessary, do not provide retrospective transparency regarding these past interactions, nor do they assure that the potential conflict of interest has been effectively managed.

Therefore, I implore you to conduct a thorough investigation into these specific concerns. If you do not intend to pursue this, please advise on the appropriate individual or body to whom this matter should be escalated.

The integrity of the NICW and the public trust in its processes are at stake. An investigation that addresses these concerns explicitly is imperative to uphold the standards expected of public institutions.

Yours sincerely,

Complaint

30.

From: NICW Secretariat

Sent: Tuesday, November 7, 2023 9:29 AM **To:** Permanent Secretary's Private Office

Cc: Public Bodies Unit

Subject: RE: Investigation into Conflict of Interest



In our original drafted response we gave more detail on NICW Commissioner which the Permanent Secretary, at the time, did not think it was appropriate to include. Would he be happy to include this now?

We also have the Chairs response which would be useful and includes more detail (attached).

Also, I wonder if it might be pertinent to include more information on the role of NICW, its non-statutory advisory role, and its recent publication on renewable energy which will impact on the renewables sector.

I'm not sure what we can say regarding his 'taking it further' question. These aren't Commissioner for Standards appointments. This is a non-statutory advisory Commission.

Any thoughts?

Best wishes



31.

From: Director of Propriety and Ethics

Sent: Tuesday, November 7, 2023 10:04 AM

To: NICW Secretariat; Permanent Secretary's Private Office

Subject: RE: Investigation into Conflict of Interest

I think that we should bear in mind that Complaint is not suggesting that he has personally been disadvantaged or suffered maladministration in this instance. This is not a complaint, which we would be obliged to deal with under our complaints procedure. We have a responsibility to take his concern seriously but if we are satisfied that they are not substantiated – and we seem to be so satisfied – then we have no obligation to convince Complaint, or to keep answering his points until he becomes convinced. Nor has he provided any evidence that NICW Commisioner has in fact behaved improperly in any way.

So I suggest a courteous response that we have looked into the concerns which he raised but we are satisfied with the way in which NICW Commissioner interests have been dealt with in his appointment and subsequently. We do not feel that there are any grounds for further investigation, unless Complaint has evidence that NICW Commissioner has behaved improperly in any way. Since this is a non-regulated appointment there is not a locus in the matter for the Public Appointments Commissioner as route for him to pursue his concerns but he could, if he wished, draw the matter to

the attention of Audit Wales, who are the statutory auditor for NCIW (I assume that it is Audit Wales?)



32.

From: NICW Secretariat

Sent: Tuesday, November 7, 2023 2:38 PM

To: Director of Propriety and Ethics; Permanent Secretary's Private Office

Subject: RE: Investigation into Conflict of Interest

Many thanks for this advice



I will draft a response accordingly and circulate for comment.

Best wishes



33.

From: NICW Secretariat

Sent: Friday, November 10, 2023 9:41 AM

To: Director of Climate Change, Energy and Planning Subject: FW: Investigation into Conflict of Interest

Attachment: See attachment 5

Hello

See attached draft response to complaint (the Commissioner, not procurement complaint) along the lines that Director of Propriety and Ethics suggests.

I am not sure if the last line is worthwhile.

Any suggestions?

Best wishes



34.

From: Director of Climate Change, Energy and Planning

Sent: Monday, November 13, 2023 6:20 PM

To: NICW Secretariat

Subject: RE: Investigation into Conflict of Interest

Morning

With apologies for the delay have now offered a few suggestions on the draft. I agree with you on the final point. I also can't quite bring myself to offer Audit Wales as next stop

Think we should run this past Director of Propriety and Ethics and Public Bodies Unit 2

35.

From: NICW Secretariat

Sent: Tuesday, November 14, 2023 9:29 AM

To: Director of Propriety and Ethics and Public Bodies Unit 2

Subject: RE: Investigation into Conflict of Interest

Attachment: See attachment 5



Thank you for your advice on this matter.

In conjunction with Director of Climate Change, Energy and Planning, we have drafted the attached response.

Please could you let me know if you have any comments or additions to make.

Best wishes



36.

From: Director of Propriety and Ethics

Sent: Tuesday, November 14, 2023 11:51 AM **To:** NICW Secretariat; Public Bodies Unit 2

Subject: RE: Investigation into Conflict of Interest

Looks good to me, thanks, Nicely judged, it I might say so, courteous and not sounding like a brush-off.



37.

From: NICW Secretariat

Sent: Tuesday, November 14, 2023 3:14 PM

To: Director of Propriety and Ethics; Permanent Secretary's Private Office

Subject: RE: Investigation into Conflict of Interest

Attachment: See attachment 5



In response to this, please find attached suggested text for a response.

This has been cleared by Director of Climate Change, Energy and Planning, Director of Propriety and Ethics and Public Bodies Unit 2.

Best wishes

Separate Email Chain

38.

From: Cabinet Division

Sent: Thursday, October 19, 2023 2:16 PM

To: Director of Propriety and Ethics; Propriety and Ethics 1

Subject: FW: FoI/REQ/COOG/Ministerial correspondence (19182)

Hi — to see attached FOI request, which I understand may relate to a complaint you are handling at present? Might it be worth having a conversation about handling please?

Thanks,



39.

From: Propriety and Ethics 1

Sent: Monday, October 23, 2023 9:40 AM

To: Cabinet Division

Subject: RE: Fol/REQ/COOG/Ministerial correspondence (19182)



I believe the complaint you refer has gone to Public Bodies Unit to respond. I've cc'd in Public Bodies Unit 1 who leads PBU.

Many Thanks



40.

From: Public Bodies Unit 1

Sent: Tuesday, October 24, 2023 3:16 PM

To: Cabinet Division; Propriety and Ethics 1; Director of Propriety and Ethics

Subject: RE: Fol/REQ/COOG/Ministerial correspondence (19182)



I recommended this was dealt with by the partnership team (NICW Secretariat) rather than PBU. I know NICW Secretariat has come back to ask us for advice but it is with him to lead on this complaint.

Kind regards



41.

From: Cabinet Division

Sent: Tuesday, October 24, 2023 3:26 PM **To:** Propriety and Ethics 1; NICW Secretariat

Subject: RE: FoI/REQ/COOG/Ministerial correspondence (19182)

Thanks

NICW Secretariat – grateful if we could have a discussion about handling of the below request please?

Thanks,

