

## **Safeguarding against possible conflicts of interest in nutrition programmes**

### **Draft approach for the prevention and management of conflicts of interest in the policy development and implementation of nutrition programmes at country level**

#### **Report by the Director-General**

1. In 2012, the Sixty-fifth World Health Assembly adopted resolution WHA65.6, in which it endorsed the comprehensive implementation plan on maternal, infant and young child nutrition. The first priority action of the implementation plan is to create a supportive environment for the implementation of comprehensive food and nutrition policies, while the resolution urged Member States, among other things, to establish a dialogue with relevant national and international parties and form alliances and partnerships to expand nutrition actions and introduce adequate mechanisms to safeguard against potential conflicts of interest.
2. Resolution WHA65.6 also requested the Director-General to develop risk assessment, disclosure and management tools to safeguard against possible conflicts of interest in policy development and implementation of nutrition programmes consistent with WHO's overall policy and practice.
3. Furthermore, in decision WHA67(9) (2014), the Director-General was requested to convene informal consultations with Member States to complete the work, before the end of 2015, on risk assessment and management tools for conflicts of interest in nutrition, for consideration by Member States at the Sixty-ninth World Health Assembly.
4. In response to that request, the Secretariat convened a technical consultation, held in Geneva on 8 and 9 October 2015, on addressing and managing conflicts of interest in the planning and delivery of nutrition programmes at country level. The technical consultation brought together experts from different fields, such as, nutrition, health systems, noncommunicable diseases, law, economics and social sciences. Diverse stakeholders, including representatives of the six WHO regions, experts from non-State actors and multistakeholder initiatives, academic researchers, lawyers and experts from other organizations of the United Nations system working in the area of partnerships, also participated. Member States were invited to oversee the process as observers.
5. Following up on the outcomes of the technical consultation, the Secretariat devised a draft approach on preventing and managing conflicts of interest in policy development and implementation of nutrition programmes at country level. The approach proposes a methodology for Member States to

consider in their engagement with individuals and non-State actors<sup>1</sup> for preventing and managing conflicts of interest in the area of nutrition. The approach is aimed at government officials involved in the development, design and implementation of public health nutrition policies and programmes.

6. A public consultation on the draft approach was held between 11 and 29 September 2017. Member States, United Nations representatives and non-State actors provided comments, which are publicly available and were considered by the Secretariat in the current version of the approach.<sup>2</sup>

7. In order to develop the proposed approach, WHO has considered different procedures and practices for preventing and managing conflicts of interest, including those adopted by organizations of the United Nations system, governmental bodies, non-State actors and health professional organizations. WHO has also reviewed the scientific literature on conflicts of interest in the drafting of policies for noncommunicable diseases, covering categories of conflict of interest, non-State actors and individuals, purposes and forms of engagement, and comparison of corporate tactics in the tobacco and food and beverage industries.

8. The proposed approach has been developed taking into consideration WHO's overall policies and practices including, inter alia, the WHO Framework of Engagement with non-State Actors.<sup>3</sup> The approach also acknowledges the differences and specificities in addressing conflicts of interest in the area of nutrition at country level.

9. The present report includes: a summary of the typologies and general principles that have been considered in the development of the tool and presented in the introductory paper,<sup>4</sup> and a summary of the main steps covered by the tool.<sup>5</sup>

## **TYPOLOGIES AND GENERAL PRINCIPLES**

10. A conflict of interest arises in circumstances where there is potential for a secondary interest (a vested interest in the outcome of Member States' work in the area of public health nutrition) 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 (related to Member States' work in the area of public health nutrition). The existence of conflict of interest in all its forms does not necessarily mean that improper action has occurred, but rather that there is a risk of improper action occurring. Conflict of interest is not only financial but can take other forms as well.

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<sup>1</sup> For the purpose of the WHO Framework of Engagement with non-State Actors non-State actors are nongovernmental organizations, private sector entities, philanthropic foundations and academic institutions (see document WHA69/2016/REC/1, Annex 5).

<sup>2</sup> Feedback on the WHO consultation "Safeguarding against possible conflicts of interest in nutrition programmes: Approach for the prevention and management of conflicts of interest in the policy development and implementation of nutrition programmes at country level". In WHO/Nutrition [website]. Geneva: World Health Organization; 2017 (<http://www.who.int/nutrition/consultation-doi/comments/en/>, accessed 12 October 2017).

<sup>3</sup> See document WHA69/2016/REC/1, Annex 5.

<sup>4</sup> An expanded version of the review of literature and practices is provided on the WHO website (see <http://www.who.int/nutrition/consultation-doi/nutrition-introductory-paper.pdf>, accessed 24 October 2017).

<sup>5</sup> The draft tool is available in <http://www.who.int/nutrition/consultation-doi/nutrition-tool.pdf>.

11. Institutional conflict of interest describes a situation where a Member State's primary interest, as reflected in its institutional mandate to protect and promote public health, may be unduly influenced by the conflicting interest of a non-State actor in a way that affects, or may reasonably be perceived to affect, the independence and objectivity of the Member State's work in the area of public health nutrition.

12. Individual conflicts of interest can involve public officials or individuals that do not belong to the public administration. Individuals engaged in the development of nutrition policies or implementation of nutrition programmes may experience a conflict of interest if a private interest (financial, personal or other nongovernmental 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 public health nutrition. A conflict of interest does not necessarily mean that the individual concerned is unable to act with the interests of the Member State only in view; the perception of a conflict of interest alone may create a negative image.

13. Conflicts of interest can arise when interactions involve external actors of two distinct types: non-State actors or individuals, both of which may provide advice, expertise, or be otherwise associated with the development of policies or implementation of nutrition programmes. Non-State actors can be nongovernmental organizations, private sector entities, philanthropic foundations and academic institutions. Individuals may either represent the interests of any of the above-mentioned entities or act in their personal capacity.

14. An entity is considered to be “at arm's length” from another entity if it is independent from the other entity, does not take instructions from it and is clearly not influenced and not reasonably perceived to be influenced in its decisions and work by the other entity. Although the term “at arm's length” does not cover individuals, for the purpose of this document the same concept is applied to them.

15. Engagement refers to any formalized interaction with the individual or institution, ranging from a donation to a partnership. For the purposes of this document, engagement refers only to formal interactions.

16. Contributions refer to the resources (financial or in-kind) that the external actor may provide for the engagement, such as delivery of goods and services and technical expertise.

17. Purpose of engagement refers to the impact the activity performed by the individual or entity will have at different phases of the policy cycle (policy development, implementation and monitoring).

18. Forms of engagement are means or channels for shaping the purpose of engagement. The same purpose of engagement can be established through different forms: charitable (such as donations); transactional (such as sponsorship); and transformational (such as multistakeholder platforms).

19. By applying the following overarching principles of engagement, a Member State's engagement with non-State actors or individuals may be successful if it: conforms with the Member State's agenda and demonstrates a clear benefit to public health and nutrition; respects the Member State's decision-making authority and leadership over the engagement in all settings; does not compromise the Member State's integrity, independence and reputation; is aligned and coherent with other policies and objectives of the Member State, such as those related to noncommunicable diseases and the

Sustainable Development Goals; conforms with internationally recognized human rights standards that the Member State is a State Party to; and is conducted on the basis of evidence, transparency, independent monitoring and accountability.

20. Effective prevention and management of conflicts of interest in the area of nutrition would call for Member States to adopt clear policies and procedures, as appropriate. Ideally, Member States should have an internal conflict of interest management system in place for public officials.

## **MAIN STEPS INCLUDED IN THE TOOL**

21. The tool is a step-by-step decision-making process that will support Member States in the process related to conflict of interest in the area of nutrition. The process consists of six steps, each followed by an assessment by the national authority of whether the engagement should continue or stop. The Secretariat recognizes that Member States may have already adopted domestic conflict of interest measures suited to their overall policy objectives in nutrition. In such cases, the WHO draft guidance could be used to supplement, rather than replace, existing national resources.

### **STEP 1: Rationale for engagement**

Objective: clarify the public health nutrition goal

22. The purpose of engagement in the area of nutrition should support implementation of the Member State's policies and recommendations, as well as application of technical norms and standards. In this first step, clarification of the public health nutrition goal is key before interacting with the external actor.

### **STEP 2: Profiling and performing due diligence and risk assessment**

Objective: have a clear understanding of the risk's profile of the external actor and the engagement

23. Due diligence refers to the actions taken by the national authority to gather and verify relevant information on an external actor, and to reach a clear understanding of the profile of the entity or individual concerned. Such a profile might combine, for example, a review of the information provided by the external actor and an in-depth examination and analysis of information about the non-State actor or individual. A conflict of interest risk assessment of the external actor and the proposed engagement is conducted in addition to the due diligence. The outcome of the risk assessment can lead to three different paths: if the risks are too high, the national authority should consider avoiding the engagement; if the risks are mixed, the national authority should balance risks against benefits (step three); and if the risks are low, the national authority may go directly to step four, risk management of the conflicts of interest identified.

### **STEP 3: Balancing risks and benefits**

Objective: analyse the risks and benefits of the proposed engagement based on impacts

24. In principle, the identification of a conflict of interest with its related risks may be balanced against the expected benefits. Member States' engagement with external actors can bring significant benefits to public health nutrition, such as, additional resources, compliance with Member States' policies, norms and standards, and wider dissemination of, and adherence by external actors to, Member States' policies, norms and standards. The national authority may consider the impact of the engagement on the Member State's reputation, integrity and independence, but also on the nutrition

interventions and on policy coherence with other government policies and objectives (public health impacts). If the benefits are equal to, or fewer than, the risks, the national authority should not proceed with engagement, as it might not be worth the effort for the Member State. Alternatively, if the benefits outweigh the risks, the national authority could proceed with engagement and go to step four.

#### **STEP 4: Risk management**

Objective: manage the risks based on mitigation measures and develop a formal engagement agreement

25. Risk management describes the process leading to a management decision whereby the national authority decides explicitly and justifiably to enter into engagement, continue engagement, engage with measures to mitigate conflict of interest-related risks, or disengage from an existing engagement. A risk-management approach to an engagement may be considered when the benefits in terms of direct or indirect contributions to public health nutrition and the fulfilment of the Member State's mandate outweigh any residual conflict of interest related risk, as well as the time and expense involved in establishing and maintaining the engagement.

#### **STEP 5: Monitoring and evaluation and accountability**

Objective: ensure that the engagement has achieved the public health nutrition goals and decide to continue or disengage

26. Step five is aimed at ensuring that the engagement has achieved the nutrition and public health goals. It should be carried out through a systematic process of evaluation that includes assessment of the engagement, communication of the relevant results to all participants, enforcement, and a system which enables the Member State to respond to observed weaknesses. In that regard, step five is closely related to step four in that if the outcome of monitoring and evaluation suggests that there are weaknesses in the mitigation measures, the national authority may wish to reconsider its approach to risk assessment and mitigation, as well as whether to continue the engagement or disengage.

#### **STEP 6: Transparency and communication**

Objective: communicate the engagement activities and outcomes to relevant audiences

27. Member States should communicate to the relevant audience the information about engagement and related conflict of interest in an open, transparent and timely manner.

### **NEXT STEPS**

28. The Secretariat will pilot the approach at country level in the six WHO regions to test its applicability and practical value. The approach should be seen as a living document that may be revised according to Member States' needs and the evolution of engagement with external actors.

### **ACTION BY THE EXECUTIVE BOARD**

29. The Board is invited to note the report.

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