

NEW OPPORTUNITIES FOR COMMUNITY AND SUPPORT (NOCS)

Conflicts of Interest Policy

Introduction

All trustees have a legal duty to act only in the best interests of their charity. They must not put themselves in any position where their duties as trustee may conflict with any personal interest they may have. Trustees' personal and professional connections can bring benefits to the work of a charity and they often form part of the reason why an individual has been asked to join the trustee body. However, they can give rise to conflicts of interest, to which the trustees must respond effectively.

The existence of a conflict of interest does not reflect on the integrity of the affected trustee, so long as it is properly addressed.

1. Conflicts of Interest Definition

A conflict of interest is any situation in which a trustee's personal interests or loyalties could, or could be seen to, prevent them from making a decision only in the best interests of the charity.

Even the perception that there is a conflict of interest can damage the charity. Where the perception is not accurate because there is no conflict of interest, the trustees should always be able to demonstrate how they have made their decisions only in the best interests of the charity.

Conflicts of interest usually arise where there is either:

- **Trustee Benefit** - there is a potential financial or measurable benefit directly to a trustee, or indirectly through a connected person
- **Conflict of Loyalty** - a trustee's duty to the charity may compete with a duty or loyalty they owe to another organisation or person.

Trustee Benefits

Trustees may only benefit from their charity where there is an explicit authority in place before any decision conferring trustee benefit is made. This would include paying a trustee or connected person for their trustee role or other paid role in the charity, paying a trustee or connected person for providing goods to the charity or transactions transferring or lending assets between the trustee and the charity. It would also include service user trustees: this means any trustee who makes use, as a beneficiary of the charity, of the equipment, facilities, services or support that are provided as part of the charitable purposes of their charity.

Expenses payments to trustees must only be refunds of legitimate and reasonable costs which a trustee has had to meet personally in order to carry out their trustee duties.

Oct 2023. Next review due ¹ Oct 2025

In cases which involve a property transaction with a connected person, the trustees must get authorisation from the Commission and comply with the conditions in the Charities Act 2011 before proceeding.

Conflict of Loyalty

A conflict of loyalty is where a trustee's loyalty or duty to another person or organisation could, or could be seen to, prevent the trustee from making a decision only in the best interests of the charity.

2. Personal Responsibility of Individual Trustees and of the Board

It is the duty of each individual trustee to:

- Declare actual or potential conflicts of interest which affect them at an early stage
- Withdraw from relevant meetings, discussions, decision making and votes where they stand to gain, whether directly, or indirectly through a connected person.

Any failure to declare a conflict of interest is a serious issue. A trustee should declare any interest which he or she has in an item to be discussed, at the earliest possible opportunity and certainly before any discussion of the item itself. If a trustee is uncertain whether or not they are conflicted, they should err on the side of openness, declaring the issue and discussing it with the other trustees.

If a trustee is aware of an undeclared conflict of interest affecting another trustee, they should notify the other trustees or the chair.

It is the duty of the NOCS board of trustees as a whole to:

- Have strong systems in place so that they are able to identify conflicts of interest.
- Adhere to the requirements of the governing document.
- Consider the issue of the conflict of interest so that any potential effect on decision making is eliminated. This may entail either:
 - REMOVING the conflict by taking a different course of action to avoid the conflict of interest or by not appointing a particular trustee or by securing a trustee resignation.
 - PREVENTING the conflict of interest from affecting their decision in a different way by following legal requirements or those in the governing document and by requiring individual trustees to act as specified above. If the actions taken are still insufficient to demonstrate that they have acted in the best interests of the charity, the trustees may need to seek the authority of the Commission.
- Ensure any trustee benefit is properly authorised and any conditions of the authority followed. The proper authority must be in place before any decision to confer trustee benefit is made.
- Formally record any conflicts of interest and how they were handled.
- Disclose trustee benefits in the charity's accounts.
- Ask prospective trustees to declare potential conflicts of interest before appointment.

- Where there is a conflict of loyalty, carefully handle any participation by a conflicted trustee.
- Irrespective of the approach taken to prevent a conflict of interest from affecting decision making, be able to demonstrate that their decision was made only in the best interests of the charity.

3. NOCS Governing Document

The following extract from the NOCS governing document details the requirements of trustees within the constitution and defines the interests that trustees should declare in relation to themselves and to connected persons, which may include spouse, partner, family, close relatives as well as connected businesses or organisations.

6. Benefits and payments to charity trustees and connected persons

(1) General provisions

No charity trustee or connected person may:

- (a) buy or receive any goods or services from NOCS on terms preferential to those applicable to members of the public;
- (b) sell goods, services, or any interest in land to NOCS on terms less preferential than those from similar suppliers;
- (c) be employed by, or receive any remuneration from, NOCS;
- (d) receive any other financial benefit from NOCS;

unless the payment or benefit is permitted by sub-clause (2) of this clause or authorised by the court or the prior written consent of the Charity Commission has been obtained. In this clause, a “financial benefit” means a benefit, direct or indirect, which is either money or has a monetary value.

(2) Scope and powers permitting trustees’ or connected persons’ benefits

- (a) A charity trustee or connected person may receive a benefit from NOCS as a beneficiary of NOCS provided that the majority of the trustees do not benefit in this way.
- (b) A charity trustee or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to NOCS where that is permitted in accordance with, and subject to the conditions in, sections 185 to 188 of the Charities Act 2011.
- (c) Subject to sub-clause (3) of this clause a charity trustee or connected person may provide NOCS with goods that are not supplied in connection with services provided to NOCS by the charity trustee or connected person.
- (d) A charity trustee or connected person may receive interest on money lent to NOCS at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).
- (e) A charity trustee or connected person may receive rent for premises let by the trustee or connected person to NOCS. The amount of the rent and the other terms of the lease must be reasonable and proper. The charity trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.
- (f) A charity trustee or connected person may take part in the normal trading and fundraising activities of NOCS on the same terms as members of the public.

(3) Payment for supply of goods only – controls

NOCS and its charity trustees may only rely upon the authority provided by subclause (2)(c) of this clause if each of the following conditions is satisfied:

- (a) The amount or maximum amount of the payment for the goods is set out in a written agreement between NOCS and the charity trustee or connected person supplying the goods (“the supplier”).

- (b) The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.
- (c) The other charity trustees are satisfied that it is in the best interests of NOCS to contract with the supplier rather than with someone who is not a charity trustee or connected person. In reaching that decision the charity trustees must balance the advantage of contracting with a charity trustee or connected person against the disadvantages of doing so.
- (d) The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to NOCS.
- (e) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of charity trustees is present at the meeting.
- (f) The reason for their decision is recorded by the charity trustees in the minute book.
- (g) A majority of the charity trustees then in office are not in receipt of remuneration or payments authorised by clause 6.

7. Conflicts of interest and conflicts of loyalty

A charity trustee must:

- (1) declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with NOCS or in any transaction or arrangement entered into by NOCS which has not previously been declared; and
- (2) absent himself or herself from any discussions of the charity trustees in which it is possible that a conflict of interest will arise between his or her duty to act solely in the interests of NOCS and any personal interest (including but not limited to any financial interest).

Any charity trustee absenting himself or herself from any discussions in accordance with this clause must not vote or be counted as part of the quorum in any decision of the charity trustees on the matter.

4. Procedures and Record-keeping

- All trustee meetings will have a standing agenda point at the beginning to allow trustees to declare any conflicts of interest, which will be formally recorded along with how they were handled, discussions and decision.
- Where trustees are using the power in the Charities Act, which allows for the payment of trustees for the provision of goods or services to the charity in certain circumstances, the decision to do this must be made only by those trustees who will not benefit.
- Any trustee benefit allowed must be authorised in advance.
- The affected trustee must be absent from any part of any meeting where the issue is discussed or decided - the individual should not vote or be counted in deciding whether a meeting is quorate.
- A register of interests will be maintained and reviewed at the Annual General Meeting.
- Any trustee benefits will be disclosed in the charity's accounts. Charities which prepare their accounts on an accruals basis must include details of payments and other benefits to charity trustees and connected persons - including family members and businesses. They are also required to say under what legal authority the payments or benefits have been made, together with the reason for them.

Where there is an actual or perceived conflict of interest, the trustees should ensure that the written record of the decision shows:

- the nature of the conflict

- which trustee or trustees were affected
- whether any conflicts of interest were declared in advance
- an outline of the discussion
- whether anyone withdrew from the discussion
- actions or mitigations taken
- how the trustees took the decision in the best interests of the charity

Recording decisions in this way helps trustees to show that they have acted properly and complied with their duties.

5. Relationship with Other Policies

The Conflicts of Interest policy relates to the following other policies:

- Fundraising
- Financial Controls
- Whistleblowing

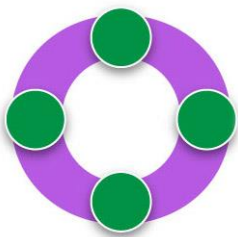
6. Approval and Review

Policy agreed 25th October 2023

Next review October 2025

This policy will be reviewed every two years by the Board of Trustees, or sooner if required by changes in NOCS circumstances or by changes in law.

New Opportunities for Community and Support in partnership with Noc's Box



Oct 2023. Next review due ⁵ Oct 2025