



Conflicts of Interest

Contents

Introduction	3
Definition	3
Organisational Policy & Procedure	5
Why we have a policy	5
The declaration of interests	5
Data protection	5
What to do if you face a conflict of interest	5
Decisions taken where a trustee has an interest.....	6
Identifying potential conflicts of interest	6
Appendix 1	7
Trustee Declaration Form	7
Appendix 2	9
Fair Deal Conflict of Interest Procedure	9
Document Information	10
Amendment History	10

Introduction

Fair Deal is a company limited by guarantee and a Scottish charity, regulated by The Scottish Charity Regulator (OSCR).

OSCR defines a conflict of interest as follows: -

As a charity trustee you must put the interests of the charity before your own interests or those of any other person or organisation including those responsible for your appointment. Where you cannot do that, there may be a conflict of interest.

A conflict of interest exists when your duty to act in the interests of the charity conflicts with:

- The interest of the person or organisation that appointed you as a charity trustee (an “appointment conflict”), or
- Conflicts with your own personal or business interest in relation to that matter (a “personal conflict”).

A conflict of interest is any situation where there is a potential for a charity trustee’s personal or business interests (or the interests of someone they are connected with) to be different from the interests of the charity. In this situation, it may sometimes be difficult for the charity trustee to make an impartial decision. However, with proper handling charity trustees can overcome these difficulties.

Company law states: -

Trustees of charitable companies, or of a charity’s subsidiary company, will be subject to the provisions of the Companies Act 2006 in relation to conflicts of interest and how they are managed. Specifically, trustees have a duty to:

- exercise independent judgment
- avoid conflicts of interest
- not to accept benefits from third parties
- declare any interest in a proposed transaction or arrangement
- declare any interest in an existing transaction or arrangement

The Board of Directors / Trustees of Fair Deal are committed to ensuring the organisation and their role within it is compliant with its legal, corporate and charitable responsibilities. From induction, the code of conduct and governance duties and approach are made clear.

Conflicts of interest are acknowledged and declared at all Board meetings and this policy and associated procedure details the organisations approach to identifying and managing and recording these issues.

Definition

OSCR Identifies that there are two main types of conflict of interest:

1. Appointment conflict: This is a conflict of interest which can arise between a charity trustee and the person or organisation which appointed them.

For example:

A charity trustee appointed by a local school, church or local authority and a decision is required on a matter which affects both the charity and the other organisation.

2. Personal conflict: When you might not be able to do what is best for the charity because it conflicts with your own personal or business interest in relation to that matter.

For example:

When a charity is considering a contract with a business and one of the charity trustees is also a director of that business.

In both cases, the charity trustee duties require you to act in the interests of the charity.

Where there is an 'appointment conflict' the charity trustee must put the interests of the charity first. However, where another duty prevents the charity trustee from putting the interests of the charity first they must:

- disclose the conflict to the charity and
- not participate in any discussion or decision making on the matter.

It is important that even where there appears to be a conflict of interest, whether it materialises or not, you take appropriate steps to manage the conflict and be seen to be acting in the best interests of the charity.

The term 'conflict of interest' can cover a range of situations and may also be called a 'conflict of roles' or 'conflict of duty'.

For example:

- a charity trustee could get direct financial benefit from a decision the charity has to make
- a charity trustee is discussing a contract or business arrangement with an organisation their family have links to
- a charity trustee is also an employee of a company that the charity is doing business with
- an employee, or potential employee, of the charity is connected to one of the charity trustees
- being a trustee of two or more charities that are competing with each other for the same grant(s) or funding
- being a trustee of a charity that gives out grants and a trustee of another charity applying for one of these grants
- being a trustee of a charity that is part of a group structure and being on the board of the parent charity
- being a trustee of a charity where you are also a service user or customer
- a charity trustee applying for a job in the charity

It is, therefore, essential that all trustees are fully aware of their duties and responsibilities and that when acting as a trustee they must act in the best interests of the charity alone.

The interests of the beneficiaries and those of the charity will - for the most part - be consistent or complementary, but on the occasions where a conflict does arise, the responsibility of all the trustees is to the charity. This includes any access that all trustees may gain to confidential or privileged information by virtue of their trusteeship. All trustees should remain alert to the fact that whatever information they acquire in their role should remain confidential and not be used to the advantage of themselves, an external individual, or entity.

Occasionally there may be cases where an apparent conflict is actually in the organisation's best interests. While the trustees may well act with integrity, the mere appearance of a conflict can be damaging to both the charity and the trustees, so conflicts need to be managed effectively.

Organisational Policy & Procedure

This policy applies to Trustees / Directors of Fair Deal

Why we have a policy

Trustees have a legal obligation to act in the best interests of Fair Deal, and in accordance with its governing document, and to avoid situations where there may be a potential conflict of interest.

Conflicts of interests may arise where an individual's personal or family interests and/or loyalties conflict with those of Fair Deal. Such conflicts may create problems; they can:

- inhibit free discussion
- result in decisions or actions that are not in the interests of Fair Deal
- risk the impression that Fair Deal has acted improperly

The aim of this policy is to protect both the organisation and the individuals involved from any appearance of impropriety.

The declaration of interests

Accordingly, we are asking trustees to declare their interests, and any gifts or hospitality offered and received in connection with their role in Fair Deal. A declaration of interest's form is provided for this purpose, listing the types of interest you should declare.

To be effective, the declaration of interests needs to be updated at least annually, and when any material changes occur.

Data protection

The information provided will be processed in accordance with data protection principles as set out in the Data Protection Act 1998. Data will be processed only to ensure that trustees act in the best interests of Fair Deal. The information provided will not be used for any other purpose.

What to do if you face a conflict of interest

If you believe you have a perceived or real conflict of interest you should:

- declare the interest at the earliest opportunity
- withdraw from discussions and decisions relating to the conflict

The charity chair & company secretary should take special care to ensure that minutes or other documents relating to the item presenting a conflict are appropriately redacted for the person facing the conflict. A balance needs to be made to ensure that the person still receives sufficient information about the activities of the charity generally without disclosing such sensitive information that could place the individual in an untenable position.

If you are a user of Fair Deal, or the carer of someone who uses services, you should not be involved in decisions that directly affect the service that you, or the person you care for, receive(s). You should declare your interest at the earliest opportunity and withdraw from any subsequent discussion, unless expressly invited to remain in order to provide information. In this case you may not participate in, or influence, the decision or any vote on the matter. You will not be counted in the quorum for that part of the meeting and must withdraw from the meeting during any vote on the conflicted item.

There are situations where you may participate in discussions from which you could indirectly benefit, for example where the benefits are universal to all users, or where your benefit is minimal. This action will be agreed by the chair and minutes accordingly.

If you fail to declare an interest that is known to the chair of the Board or any other office bearer then that interest will be declared by them.

Decisions taken where a trustee has an interest

In the event of the board having to decide upon a question in which a trustee has an interest, all decisions will be made by vote, with a simple majority required. A quorum must be present for the discussion and decision; interested parties will not be counted when deciding whether the meeting is quorate. Interested board members may not vote on matters affecting their own interests.

All decisions under a conflict of interest will be recorded by the Company Secretary and reported in the minutes of the meeting. The report will record:

- the nature and extent of the conflict
- an outline of the discussion
- the actions taken to manage the conflict

Where a trustee benefits from the decision, this will be reported in the annual report and accounts in accordance with the current Charities SORP.

All payments or benefits in kind to trustees will be reported in the charity's accounts and annual report, with amounts for each trustee listed for the year in question.

Identifying potential conflicts of interest

A key means of preventing conflicts of interest from affecting decision-making is to identify potential conflicts in advance. This gives trustees time to consider the implications and to respond appropriately. To ensure that trustees remain in an optimal position to manage any real or perceived conflict, it should be standard practice to ask for any such declarations at the start of each trustee meeting

Trustee Declaration Form

I, as trustee of Fair Deal have set out below my interests in accordance with the organisation's conflicts of interest policy.

Category	Please give details of the interest and whether it applies to yourself or, where appropriate, a member of your immediate family, connected persons or some other close personal connection
Current employment and any previous employment in which you continue to have a financial interest.	
Appointments (voluntary or otherwise) e.g. trusteeships, directorships, local authority membership, tribunals etc.	
Membership of any professional bodies, special interest groups or mutual support organisations.	
Investments in unlisted companies, partnerships and other forms of business, major shareholdings [charities may set a figure here, e.g. more than 1% or 5% of issued capital] and beneficial interests.	
Gifts or hospitality offered to you by external bodies and whether this was declined or accepted in the last twelve months.	
Do you use, or care for a user of the organisation's services?	
Any contractual relationship with the charity or its subsidiary.	
Any other conflicts that are not covered by the above.	

To the best of my knowledge, the above information is complete and correct. I undertake to update as necessary the information provided, and to review the accuracy of the information on an annual basis. I give my consent for it to be used for the purposes described in the conflicts of interest policy and for no other purpose.

Signed:

Position:

Date:

Document Information

Document Ref:	Conflicts of Interest
Version:	2
Date of Version:	26/04/2019
Created By:	Anne Marie Borthwick
Approved By:	Ann Marie Docherty
Confidentiality Level:	Controlled: Uncontrolled if printed

Amendment History

Date	Version	Created By	Description of Change
01/04/2017	1	Anne Marie Borthwick	Initial Release
26/04/2019	2	Elaine Davidson	Added Front cover and updated version/date