



## St Albans Diocesan Board of Finance

### CONFLICT OF INTERESTS POLICY

Approved by: Audit Committee of the Diocesan Board of Finance  
Policy originator: Glyn Barker, Finance Director  
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*This policy applies to members of diocesan boards, committees and councils, diocesan officers and diocesan employees.*

*It should be read in conjunction with the Diocese's anti-bribery and whistleblowing policies.*

Trustees have a legal obligation to act in the best interests of the charities they serve. Trustees, generally, should not benefit from the charity and should not be influenced by their wider interests when making decisions affecting the charity. The Board of Finance is a company limited by guarantee and a registered charity: members of the Board are charity trustees and this policy is intended to assist them in meeting their legal obligations. As a matter of good practice, those acting for or on behalf of the Diocese as members of other boards, committees and councils, or as diocesan officers and employees, should assume similar obligations, and references to trustees below also apply to them.

#### What is a conflict of interest?

A conflict of interest can be defined as:

“...any situation in which a trustee’s personal interests or responsibilities that they owe to another body, may, or may appear to, influence the trustee’s decision making.”<sup>1</sup>

Conflicts of interest arise when the interests of trustees, or “connected persons”,<sup>2</sup> are incompatible or in competition with the interests of the diocese. Such conflicts may potentially:

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<sup>1</sup> Page 8, *Charitable Museums and Galleries: A guide to conflicts of interest policies, trustee benefits and transactions between trustees and charities*, a joint publication of the Department of Culture, Media and Sport and the Charity Commission, 2008.

<sup>2</sup> s.118 Charities Act 2011 defines a “connected” person as:

- a) a child, parent, grandchild, grandparent, brother or sister of a trustee;
- b) spouse or civil partner of trustee, or of (a) above;
- c) business partner of trustee or (a) or (b);
- d) institution controlled i) by trustee or (a), (b), or (c) above or ii) by two or more persons falling within i) when taken together ;
- e) a body corporate which i) the trustee or connected person in (a) to (c) has a substantial interest or, ii) two or more persons falling within i) when taken together have a substantial interest.

Trustees seeking to sell land or other property belonging to the charity should refer to s.118 of the Charities Act 2011 for a further definition of ‘connected persons’ in relation to these transactions. For trustees of charitable companies the definition of ‘connected persons’ is slightly different and readers should refer to s.252 of the Companies Act 2006.

- inhibit free discussion
- result in decisions or actions that are not in the interests of diocese
- reputational damage and the risk of the impression that the diocese has acted improperly.

Such situations present a risk that decisions will be based on these other influences, rather than the best interests of the diocese.

The most common types of conflict include:

- (i) **direct financial interest** – when a trustee obtains a direct financial benefit via:
  - the payment of a salary, grant or other benefit to a trustee by the charity
  - the award of a contract to a company with which a trustee is involved
  - the sale of property at below market value to a trustee
- (ii) **indirect financial interest** – this arises when a close relative of a trustee benefits from the charity:
  - the awarding of a contract or grant to a trustee’s spouse or dependent child
- (iii) **non-financial or personal conflicts** – occur where trustees receive no financial benefit, but are influenced by external factors:
  - influencing board decisions on service provision to their own advantage, perhaps because they use the charity’s service themselves or care for someone who does
  - to gain some other intangible benefit or kudos
  - awarding contracts to friends
- (iv) **conflicts of loyalties** – trustees may have competing loyalties between the charity to which they owe a primary duty and some other person or entity eg
  - the body that appointed them to the charity
  - their employer
  - another charity of which they are trustee
  - a legal obligation to another person or body

The test is whether the other interest could be seen to interfere with the trustee’s ability to decide an issue only in the best interests of the charity.

Trustees, when acting as a trustee, must act in the best interests of the charity alone. Where a conflict does arise, the responsibility of all the trustees is to the charity. This includes any access that trustees may gain to confidential or privileged information by virtue of their trusteeship. Whatever information trustees acquire in their role should remain confidential and not be used to the advantage of themselves, an external individual, or entity.

### Managing conflicts of interest

#### (i) Declaration of interests

Potential and new trustees should be informed that they will be expected to declare their interests on appointment and subsequently, when they arise. They should also be provided with a copy of the conflicts of interest policy, preferably before appointment. If the potential trustee

is concerned about a possible conflict of interest, they should consult the diocesan secretary before agreeing to take up the position.

On appointment, trustees should be asked to complete a declaration of interests form. Any concerns about what comes under this heading should be discussed with the diocesan secretary. The declaration of interests needs to be updated when material changes occur, and reviewed on a regular basis – at least annually.

When completing a declaration of interests, trustees should consider the following areas:

- employment
- any previous employment in which the trustee still has a financial, or other, interest
- any other appointments (voluntary or otherwise) e.g. trusteeships, directorships, local authority membership, tribunals
- professional and organisational membership
- membership of any special interest groups
- investments in unlisted companies, partnerships and other forms of business
- major shareholdings (e.g. more than 5% of issued capital) and beneficial interests
- gifts or hospitality offered to the trustee by external bodies and whether this was declined or accepted
- family connections where relevant, such as the trustee's spouse/partner working for a similar organisation or funder
- using, or caring for a user of, the organisation's services
- any contractual relationship between the trustee or a connected person and the charity or its subsidiary.

Recognising the need to balance accountability and unwarranted intrusion into the affairs of their trustees the level of detail required in the register will depend on:

- the likelihood of a conflict arising
- the potential damage that could be caused by a conflict.

The completed declarations should be returned to the diocesan secretary, who will be responsible for keeping the register of interests up to date. The register will be available for inspection on request to the diocesan secretary. There may be sections of the declaration, or levels of detail within certain sections, which trustees may want and decide to keep confidential. Such information will be made available only to the chairman and such officers or professional advisers on a 'need to know' basis.

When a conflict of interest does arise, it is the responsibility of the trustee in question to declare such a conflict to the board. If he or she fails to do so, the chairman or secretary should declare the conflict.

## **(ii) Meetings**

It should be standard practice for the Chairmen of diocesan boards, councils and committees to ask for declarations of interest at the start of each meeting.

Where a board, council or committee is presented with a conflict of interest, the interest should be declared, the conflict and action taken to manage it should be recorded in the minutes and, where it has been decided that an individual should withdraw from the meeting, steps should be taken to ensure that any details of the discussion relating to the conflict of interest are not divulged. The secretary of the relevant body should ensure that minutes or other documents relating to the item 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.

A particular conflict of interests may arise in the case of archdeacons when dealing with matters relating to parochial clergy and parishes within their own archdeaconry, as both members of diocesan boards and committees and, under Canon C 22, 4, are required under the bishop, to 'assist the bishop in his pastoral care and office'.

In these circumstances the archdeacon must declare their interest. They may present the views of the clergy/parish but must then act solely in the best interests of the diocesan body concerned or withdraw from the discussion.

In the case of clergy members of diocesan bodies voting on matters relating to stipends the policy is disapplied where such matters apply generally throughout the Diocese or some part of the Diocese and do not benefit either directly or indirectly those individuals differently from other clergy in the diocese.

### **(iii) Gifts and hospitality**

Any gifts or hospitality offered and received in connection with their role as a trustee should be declared in accordance with the Diocese's anti-bribery policy and a register of such declarations will be available for inspection at meetings of the Board of Finance.

Trustees acting outside the terms of their governing document, without permission from the courts or the Charity Commission, or knowingly accepting a benefit from the charity without proper authority eg from the Charity Commission, the courts, or the charity's governing document, will be in breach of trust.

## **Legal obligations**

Those individuals who are members of the Board of Finance are both directors in Company Law and trustees in Charity Law. As a result they have a number of specific obligations in each:

### **(i) Company Law requirements**

Directors/trustees of charitable companies, or of a charity's subsidiary company, will be subject to the provisions of the Companies Act 2006 (see in particular s. 173-176) in relation to conflicts of interest and how they are managed. Specifically, directors 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.

ss. 190 to 196 of the Companies Act 2006 limit substantial property transactions between companies and their directors and people connected<sup>3</sup> with the directors.

If the board of a charitable company exceeds its constitutional powers in entering into a transaction with a director/trustee (or someone connected to a director/trustee), the transaction may be declared void. Where a director fails to declare an interest in a proposed transaction, the director may be liable to a fine. The directors/trustees involved in the transaction, including those who authorised it, may be required to return any gains to the company or to make good any losses incurred.

## (ii) Charity Law requirements

The Charities SORP (FRS 102) 2015 requires the following information to be provided for each individual trustee who received remuneration or other benefits in the reporting period:

- the legal authority under which the payment was made
- the name of the remunerated trustee;
- details of why the remuneration or other employment benefits were paid;
- the amount of remuneration paid;
- the amount of any pension contributions paid by the charity for the reporting period; and
- the amount of any other benefit, for example any termination benefits, private health cover or the provision of a vehicle.

If expenses have been incurred, this SORP also requires that charities must disclose:

- the total amount of expenses reimbursed to trustees or paid directly to third parties;
- the nature of those expenses (for example travel, subsistence, accommodation, entertainment etc.); and
- the number of trustees reimbursed for expenses or who had expenses paid by the charity.

This SORP requires all transactions between a charity and a related party to be disclosed subject to certain exemptions set out in paragraphs 9.18.

## Additional information

Charity Commission: <https://www.gov.uk/manage-a-conflict-of-interest-in-your-charity>

Charities SORP: <http://www.charitySORP.org/download-a-full-sorp/>

Companies Act: [http://www.legislation.gov.uk/ukpga/2006/46/pdfs/ukpga\\_20060046\\_en.pdf](http://www.legislation.gov.uk/ukpga/2006/46/pdfs/ukpga_20060046_en.pdf)

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<sup>3</sup> A “connected person” to a director is defined in s252(2) of the Companies Act 2006 as:

- a) members of the directors’ family (s253 defines these as – spouse or civil partner; any other person with whom the director lives as a partner in an enduring family relationship, and that partners’ children or step-children under 18 years of age; children or stepchildren of the director and their partner or spouse; directors’ parents);
- b) a body corporate with which the director is connected;
- c) a person acting in his capacity as a trustee of a trust – i) the beneficiaries of which include the director or a person who by virtue of (a) or (b) is connected with him, or ii) the terms of which confer a power on the trustees that may be exercised for the benefit of the director or any such person, other than a trust for the purposes of an employees’ share scheme or pension scheme;
- d) a person acting in his capacity as a partner – i) of the director, or ii) of a person who by virtue of (a) to (c) is connected with that director;
- e) a firm that is a legal person under the law by which it is governed and in which - i) the director is a partner, ii) a partner is a person who by virtue of (a) to (c) is connected with the director, or iii) a partner is a firm in which the director is a partner or in which there is a partner who by virtue of (a), (b) or (c) is connected with the director.