Trustee Conflict of Interest- Notes and Policy

The following notes and policy document have been drawn and adapted from the NCVO Good Trustee Guide.

The preamble describes the context in which conflicts of interest must be assessed and the policy provides for:

Dealing with conflicts of interest

Although these duties can be stated without much difficulty, putting them into practice can be much more complex. The law is quite clear. Irrespective of the way in which a trustee comes to be appointed, while acting as a charity trustee his or her first duty is to the charity. All other loyalties must be put to one side. If this is not possible, the trustee must play no part in decisions where there is an irreconcilable conflict. If this is simply not possible, or if the conflicts are so frequent as to limit his or her usefulness as a trustee, then s/he must stand down from one of the posts.

To avoid any potential conflict of interest, charitable companies are prohibited from making loans to their trustees. As a trustee of a charitable company you have explicit duties under company law to inform your board of situations where you, or people connected with you through family, business or another charity, have an interest in a contract or transaction (S.317 Companies Act 1985).

Your governing document may specify whether trustees who have an interest can vote on the relevant issues. If it does not, you should take the advice of the chair. A good test is to ask if the charity’s reputation would be damaged if your connection with a member of staff, a firm of professional advisers, or a building company, for example, were made public.

Conflicts of interest – agreeing a policy

Any potential conflict of interest needs to be carefully considered and managed in the correct way. It is good practice to have an agreed policy and an agreed practice which trustees should follow when considering conflicts of interest. This can include:

- A code of conduct for trustees (see the attached model code of conduct)
- Register of interests disclosing potential personal interests
- A procedure for identifying conflicts and withdrawing from discussion and decision and the minuting of such a process (this should also extend to the discussion and decision to pay).

Duty to act collectively

Trustees are jointly and severally responsible for the activities of the charity and you must act together. No trustee acting alone can bind his or her fellow trustees, unless specifically authorised to do so.
A Code of governance

A code of conduct for board members ensures high standards and makes it clear how any potential conflicting interests are to be raised and dealt with.

The committee on Standards in Public Life was established by the then Prime Minister in October 1994, under the Chairmanship of Lord Nolan, to consider standards of conduct in various areas of public life. This code is based on a similar framework and adapts the Nolan Committee’s ‘Seven Principles of Public Life’.

*According to the Commission on the Future of the Voluntary Sector, “We were impressed by the review of codes of good governance for ‘public spending bodies’ set out in the Nolan Committee report and suggest that a set of principles for the voluntary sector as a whole might be produced.”*
Apex Charitable Trust Code of Conduct for the Trustee Board

Introduction

The purpose of this document is to provide a model code of conduct for trustees. This model aims to capture good practice. As such it should be used as a guide rather than a definite code. It should be tailored to meet the specific needs of each organisation. Legal regulations must be complied with.

Selflessness

Trustees of Apex Charitable Trust have a general duty to act in the best interests of Apex Charitable Trust as a whole. They should not do so in order to gain financial or other material benefits for themselves, their family, their friends or the organisation they come from or represent.

Integrity

Apex Charitable Trust’s trustees:

- should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their role;
- as well as avoiding actual impropriety, should avoid any appearance of improper behaviour;
- should avoid accepting gifts and hospitality that might reasonably be thought to influence their judgement.

Objectivity

In carrying out their role, including making appointments (including trustee appointments), awarding contracts, recommending individuals for rewards and benefits or transacting other business, Apex Charitable Trust’s trustees should ensure that decisions are made solely on merit.

Accountability

Apex Charitable Trust’s trustees:

- have a duty to comply with the law on all occasions in accordance with the trust placed in them and in such a way as to preserve public confidence in Apex Charitable Trust;
- are accountable for their decisions and actions to the public, funders and service users. They must submit themselves to what scrutiny is appropriate to their role.

Openness

Apex Charitable Trust’s trustees:

- should ensure that confidential material, including material about individuals, is handled in accordance with due care;
• should be as open as possible about their decisions and action that they take. They should give reasons for their decisions and restrict information only when the wider interest clearly demands.

Honesty

Apex Charitable Trust’s trustees:

• have a duty to declare any interests relating to their trustee role and to take steps to resolve any conflicts that may arise. Where private interests of a trustee conflict with their trustees duties, he/she must resolve this conflict in favour of the trustee role;
• must make relevant declarations of interest in the different circumstances and roles they play both within and outside Apex Charitable Trust.

Leadership

Apex Charitable Trust’s trustees:

• should promote and support the principles of leadership by example;
• must respect the role of the chief executive. There will be circumstances under which trustees will be working directly with Apex Charitable Trust staff. Guidelines for such working relationships must be clear to both staff and trustees and, when these occasions arise, the chief executive should be informed in advance.
Trustee Declaration

I declare that:

- I am over age 18.
- I am not an undischarged bankrupt.
- I have not previously been removed from trusteeship of a charity by a Court or the Charity Commission.
- I am not under a disqualification order under the Company Directors’ Disqualification Act 1986.
- I am, in the light of the above, not disqualified by the by the Charities Act 1993 (section 72) from acting as charity trustee.
- I undertake to fulfil my responsibilities and duties as a trustee of Apex Charitable Trust in good faith and in accordance with the law and within Apex Charitable Trust’s objectives/mission.
- I do not have any financial interests in conflict with those of Apex Charitable Trust (either in person or through family or business connections) except those which I have formally notified in a conflict of interest statement. I will specifically notify any such interest at any meeting where trustees are required to make a decision which affects my personal interests, and I will absent myself entirely from any decision on the matter and not vote on it.

Signed [name of trustee]

Date

Conflicts of interest

- Any trustee who has a financial interest in a matter under discussion should declare the nature of his/her interest and withdraw from the room, unless s/he has a dispensation to speak.
- If a trustee has any interest in the matter under discussion which creates a real danger of bias, that is, the interest affects him/her household, more than the generality affected by the decision: s/he should declare the nature of the interest and withdraw from the room, unless s/he has a dispensation to speak.
- If a trustee has any other interest which does not create a real danger of bias, but which might reasonably cause others to think it could influence their decision, s/he should declare the nature of the interest, but may remain in the room, participate in the discussion, and vote if s/he wishes.
- If in any doubt about the application of these rules, s/he should consult with the chair.
- It is recommended that trustees’ interests are listed in a register.