

Conflicts of interest

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.

This means that they should handle conflicts of interest using the following steps:

IDENTIFY conflicts of interest

Trustees:

- each have an individual personal responsibility to declare conflicts of interest which affect them; and
- should have strong systems in place so that they are able to identify conflicts of interest.

PREVENT the conflict of interest from affecting the decision

Trustees must make their decisions only in the best interests of the charity. This means that they must consider the issue of the conflict of interest so that any potential effect on decision making is eliminated. How they do this will depend on the circumstances. In cases of serious conflicts of interest it may mean the trustees deciding to remove the conflict by:

- not pursuing a course of action;
- proceeding with the issue in a different way so that a conflict of interest does not arise; or
- not appointing a particular trustee or securing a trustee resignation.

Where trustees have decided against removal of the conflict of interest they must prevent it from affecting their decision in a different way. They:

- must follow any specific requirements in the law or the charity's governing document which deal with conflicts of interest and how they should be managed (legal requirement);
- should, where there are no specific governing document or legal provisions:
 - require conflicted trustees to declare their interest at an early stage and, in most cases, withdraw from relevant meetings, discussions, decision making and votes; and
 - consider updating their governing document to include provisions for dealing with conflicts of interest;
- may, exceptionally, need to seek the authority of the Charity Commission where the conflict of interest is so acute or extensive that following these options will not allow the trustees to demonstrate that they have acted in the best interests of the charity.

Conflicts of interest often arise because a decision involves a potential trustee benefit. Where this is the case:

- the trustee benefit must be properly authorised (legal requirement); and
- the trustees must follow any conditions attached to the authority which say how the conflict of interest should be handled (legal requirement).

RECORD conflicts of interest

Trustees:

- should formally record any conflicts of interest and how they were handled; and
- must, if they prepare accruals accounts, disclose any trustee benefits in the charity's accounts.