



NOTTINGHAM CIVIC SOCIETY

Registered Charity No. 504768

Policy on Conflicts of Interest and Loyalty

This policy document belongs to Nottingham Civic Society (the Society), an unincorporated charity. By accepting the role of a charity trustee of the Society, all trustees agree to abide by this policy.

Definitions

Breach of duty: means a breach of any trustee duty. Trustees of Nottingham Civic Society, as an unincorporated charity, have duties under both the Charities Act and the Trustee Acts.

Charities Act: means the Charities Act 2011, as amended.

Conflict of interest: 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 Society.

Connected person: this includes family, relatives or business partners of a trustee, as well as businesses in which a trustee has an interest through ownership or influence. The term includes a trustee's spouse or unmarried or civil partner, children, siblings, grandchildren and grandparents, as well as businesses where a trustee or family member holds at least one-fifth of the shareholding or voting rights. If trustees are in doubt about whether a person or business is a connected person they should seek advice from a solicitor or other person qualified to advise on the matter. (Where the Society is either paying a connected person for goods or services, or disposing of land to a connected person, s.118 of the Charities Act covers land disposals and s.188 defines what a connected person is in respect of goods and services.)

Conflict of loyalty: means a particular type of conflict of interest, in which 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 Society.

Expenses: means refunds by a Society of legitimate payments which a trustee has had to meet personally in order to carry out their trustee duties. Any reasonable costs that allow trustees to carry out their duties can be classed as legitimate expenses and paid from the Society's funds.

Goods or services: means services provided, or goods provided, or goods and services provided together.

Governing document: means the Society's constitution, the legal document setting out the Society's objects and how it is administered.

Trustee: means a Society trustee who is responsible for the general control of the management of the administration of the Society. In the Society, this means the trustees, the board, managing trustees, the management committee, governors or directors, or as otherwise formed or described.

Trustee benefit: means any instance where money, or other property, goods or services, which have a monetary value, are received by a trustee from the Society. The law says that trustees cannot receive a benefit from their Society, whether directly or indirectly, unless they have an adequate legal authority to do so. The term trustee benefit does not include any payments to trustees which are for their proper out of pocket expenses.

Service user trustee: this means any trustee who makes use, as a beneficiary of the Society, of the equipment, facilities, services or support that are provided as part of the charitable purposes of the Society.

Constitution

The Society's governing document (the constitution) contains the following statement at s.9:

It shall be the duty of every member who is in any way directly or indirectly interested financially or professionally in any item discussed at any meeting of the Society (including any meeting of any Committee or Sub-Committee) at which they may be present to declare such interest and they shall not discuss (except by the invitation of the Chair or Vice Chair) or vote thereon.

Policy

All trustees have a legal duty to act only in the best interests of the Society. They must not put themselves in any position where their duties as trustee may conflict with any personal interest they may have.

The responsibility to identify and deal with conflicts of interest rests with all trustees of the Society. This is required in order to meet the joint legal responsibility to make decisions.

Identifying conflicts of interest

The law says that each individual trustee must avoid putting themselves in a position where their duty to act only in the best interests of the Society could conflict with any personal interest they may have. Trustees must therefore understand that individual trustees who fail to identify and declare any conflicts of interest will fail to comply with their personal legal responsibility to avoid conflicts of interest and act only in the best interests of the Society.

Each trustee therefore has an individual personal responsibility to declare conflicts of interest which affect them. Such a declaration must be made to the chair of any meeting before the matter affected is discussed and must be recorded in the minutes of the meeting.

Preventing the conflict of interest from affecting decisions

Trustees must make their decisions only in the best interests of the Society. This means that they must consider the issue of any conflict of interest so that any potential effect on decision making is eliminated. In cases of serious conflicts of interest the trustee must 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.

Where a trustee has 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 Society's constitution which deal with conflicts of interest and how they should be managed (legal requirement)
- may, exceptionally, 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 trustee to demonstrate that they have acted in the best interests of the Society

Where the conflict of interest involves a potential trustee benefit;

- 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).

Recording other interests:

- The Society will require each trustee to register their other interests in a form decided by the Society's Board of Trustees.
- The register will be available to the membership and public alike.
- Trustees must declare at every meeting they attend that they have no conflict of interest with any item on the agenda or to be discussed or decided upon.

Appointments

Conflicts of interest will be considered as a pre-appointment issue. Prospective trustees will be asked about potential conflicts of interest, and these should be declared to those who will decide on the appointment. Where prospective trustees are likely to be subject to serious or frequent conflicts of interest, the trustees should seriously consider whether that trustee should be appointed.

Appointed trustees

Where a trustee is elected, or appointed, by a connected organisation or other third party, they must act only in the best interests of the Society in carrying out their trustee role. Trustees should fully acquaint themselves with their responsibilities as trustees.

Trustees must understand that:

- even the perception that there is a conflict of interest can damage the Society. Where the perception is not accurate because there is no conflict of interest, the trustee should always be able to respond appropriately to the situation by managing the risks to the Society and being prepared to explain how they have made their decisions only in the best interests of the Society.
- conflicts of interest relate to a trustee's personal interests and the interests of those connected to them. This means that there is a conflict of interest where there is a proposed transaction between the Society and a connected person. Similarly, there is a conflict of interest where there is a benefit or a potential benefit to a connected person.

Benefits to trustees

Trustees can only benefit from the Society where there is an explicit authority in place before any decision conferring trustee benefit is made. Typical examples of benefits to trustees are where the trustees decide to:

- sell, loan or lease Society assets to a Society trustee
- acquire, borrow or lease assets from a trustee for the Society
- pay a trustee for carrying out their trustee role
- pay a trustee for carrying out a separate paid post within the Society, even if that trustee has recently resigned as a trustee
- pay a trustee for carrying out a separate paid post as a director or employee of the Society's subsidiary trading company
- pay a trustee, or a connected person, for providing a service to the Society - this covers anything that would be regarded as a service and includes legal, accountancy or consultancy services through to painting or decorating the Society's premises, or any other maintenance work
- pay a trustee, or a connected person, for providing goods to the Society, such as paint, timber, sports equipment, consumables or stationery
- employ a trustee's spouse or other close relative at the Society (or at the Society's subsidiary trading company)
- make a grant to a service user trustee, or a service user who is a close relative of a trustee
- allow a service user trustee to influence service provision to their exclusive advantage

Recording conflicts of interest

Trustees:

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

Conflicts of loyalty

Conflicts of loyalty are where the affected trustee does not stand to gain any direct benefit, but the trustee's decision making at the Society could be influenced by their other interests. Trustees should treat these the same as conflicts of interest. They include a conflict with their loyalty to:

- the body that appointed them to the Society
- the membership or section of the Society that appointed them to trusteeship
- another organisation, such as their employer
- another Society of which they are a trustee
- a member of their family
- another connected person or organisation.

The Board of Trustees may decide that where a conflict of loyalty poses no risk or a low risk to decision making in the best interests of the Society, the affected trustee, having declared their other interest, can participate in decision making. Deciding that a conflict of interest is low risk, and that the affected trustee can participate in the decision, is a judgement for the trustees. The trustees must take all relevant factors into account and be ready to explain their approach if asked.

Amendments and updating

This document is based on guidance supplied by the Charity Commission, April 2024.

This policy is to be reviewed on a regular basis and kept in line with the latest advice by the Charity Commission. The Board of Trustees of the Society will have power to make such updates and amendments.

Agreed and adopted by the Board of Trustees at a meeting held on [date]

Signed by Chairman on behalf of the Board.

.....

[date]