ROYAL COLLEGE OF SPEECH AND LANGUAGE THERAPISTS

CONFICT OF INTERESTS POLICY

Updated March 2017
PREAMBLE NOTES

This policy is part of a suite of policies that must be read and adhered to by all trustees. It is a summary of 28 pages of Charity Commission Guidance on Conflicts of Interest (CC29). Trustees are strongly recommended to read the full document, which can be found at this link:


References to the “Commission” means the Charity Commission

Please note that everything in this summary policy is a legal requirement

The principles of this conflicts of interest policy apply equally to members of RCSLT Committees, working groups and, where applicable, staff members.

1. LEGAL REQUIREMENT

There are two overarching issues which trustees must address:

a. Trustees have a legal duty to act only in the best interests of the RCSLT to prevent the conflict of interest associated with the trustee benefit from affecting decision making. They must not put themselves in any position where their duties as trustee may conflict with any personal interest they may have.

b. There must be an appropriate authority in place before any decision conferring trustee benefit is made.

2. HOW TO HANDLE CONFLICTS OF INTEREST

Trustees should handle conflicts of interest using the following steps:

IDENTIFY conflicts of interest

PREVENT the conflict of interest from affecting the decision

RECORD conflicts of interest and the action taken

2.1 IDENTIFYING conflicts of interest

The Commission expects individual trustees and trustee bodies to be able to identify any conflicts of interest at an early stage. 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 charity could conflict with any personal interest they may have. In practice this means 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 RCSLT

- the Board must ensure that any conflicts of interest do not prevent them from making a decision only in the best interests of the RCSLT
What is a 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 the trustee from making a decision only in the best interests of the RCSLT.

A conflict of interest exists even where there is the possibility that a trustee’s personal or wider interests could influence the trustee’s decision making. Even the perception that there is a conflict of interest could damage RCSLT’s reputation. Where the perception is not accurate because there is no conflict of interest, the trustees should always be able to respond appropriately to the situation by managing the risks to the RCSLT and being prepared to explain how they have made their decisions only in the best interests of the RCSLT.

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 charity and a connected person. Similarly, there is a conflict of interest where there is a benefit or a potential benefit to a connected person.

Where and how do conflicts of interest arise?

Conflicts of interest usually arise where either:

- there is a potential financial or measurable benefit directly to a trustee, or indirectly through a connected person
- a trustee’s duty to the RCSLT may compete with a duty or loyalty they owe to another organisation or person

The kind of interests which should be declared are:

- Personal interests where the trustee receives direct payment
- Fee paid work by an external organisation
- The award of a contract to another organisation in which a trustee has an interest and from which the trustee will receive a financial benefit
- Conflict of loyalties caused by other academic or charitable interests, whether paid or unpaid, including membership of boards, or trusteeships of another charity or consultancy
- Conflict of loyalties such as where a friend/relative of a trustee is employed by the RCSLT

Benefits to Trustees

Trustees can only benefit from the RCSLT where there is an explicit authority in place before any decision conferring trustee benefit is made. The RCSLT Memorandum of Association clause 8 allows for remuneration of a Trustee for the provision of services in certain circumstances.

Conflicts of Loyalty

These conflicts of interest arise because, although the affected trustee does not stand to gain any benefit, the trustee’s decision-making at the RCSLT could be influenced by his or her other interests. For example, a trustee’s loyalty to the RCSLT could conflict with his or her loyalty to

- the membership of the RCSLT that elected or appointed them to trusteeship
- another organisation, such as their employer
- another charity of which they are a trustee
• a member of their family
• another connected person or organisation

The test is always that there is a conflict of interest if the trustee’s other interest could, or could be seen to, interfere with the trustee’s ability to decide the issue only in the best interests of the RCSLT.

2.2 PREVENTING Conflicts of interest from affecting decision making

Having identified a conflict of interest, trustees must act only in the best interests of the RCSLT. 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 prevent the conflict from affecting decision making will depend on the circumstances.

• Individual trustees should always declare any conflicts of interest which affect them
• Any failure to declare a conflict of interest is a serious issue
• The Board should consider whether serious conflicts of interest should be removed or require authority
• Affected trustees should not participate in any decisions where they stand to gain, whether directly, or indirectly through a connected person
• Where there is a conflict of loyalty, trustees should carefully handle any participation by a conflicted trustee
• Irrespective of the approach trustees take to prevent a conflict of interest from affecting their decision making, they should be able to demonstrate that their decision was made only in the best interests of the RCSLT

The following steps describe how trustees can prevent a conflict of interest from affecting their decision making.

• Declare conflicts of interest. The Commission expects that there should be a standard agenda item at the beginning of every trustee meeting to declare any conflicts of interest in the items to be discussed. Conflicts of interest that arise between meetings should be declared to the Company Secretary so that they may be discussed and appropriate action taken. If a trustee is uncertain whether to declare a conflict of interest, the trustee should err on the side of caution and declare the issue.
• Consider removing the conflict of interest
• Follow the law and the charity’s governing document
• Withdraw from decision making where the conflict of interest is associated with trustee benefit
• Withdraw from decision making where there is a conflict of loyalty

2.3 RECORDING of conflicts of interest

The Commission expects the charity to keep written records of conflicts of interest and how trustees have dealt with them. In RCSLT, the following records must be kept:

a. A record should be kept in the minutes of Board and Committee meetings and should include:

• the nature of the conflict
• which trustee or trustees were affected
• whether any conflicts of interest were declared in advance
• an outline of the discussion
• whether anyone withdrew from the discussion
• how the trustees took the decision in the best interests of the charity

Recording decisions in this way will help to show that the RCSLT’s trustees have acted properly and complied with their duties.

b. RCSLT is also obliged to include details of payments to trustees in the annual statutory accounts, including the legal authority under which the payments have been made and the reason for them.

c. All Trustees and Committee members should complete a Conflicts of Interest declaration form (see Appendix 2) after each AGM and if their Conflicts of Interest change.

3. What are the consequences of not acting properly where there is a conflict of interest?

Legal consequences – Failure to act properly is a breach of trustees’ legal responsibilities

Regulatory consequences – The Commission will intervene if it has concerns about trustee misconduct or mismanagement or if there is a risk to charity property.

4. The legal framework for charitable companies

In addition to the legal responsibilities as trustees as required by the Charities Act and the Commission, trustees have additional responsibilities as directors by virtue of the fact that the RCSLT is a registered Company Limited by Guarantee and is therefore subject to the Companies Act 2006 (CA2006). The Commission’s guidance to trustees applies to director trustees, but specifically the following sections of CA2006 place the following duties on directors:

• Section 175 – a director must avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company; this applies in particular to the exploitation of any property, information or opportunity
• Section 176 – a director...must not accept a benefit from a third party
• Section 177 – if a director .... is in any way, directly or indirectly, interested in a proposed transaction or arrangement with the company, he must declare the nature and extent of that interest to the other directors.
• Section 182 – (as for Section 177 above, but requires declaration of any interest in an existing transaction)

5. RCSLT’s governing document

The RCSLT Memorandum of Association clause 8 states:

8. A member of the Board of the RCSLT (“the relevant Trustee”) may provide services to the RCSLT for remuneration if (a) the Board is satisfied that it is in the best interests of the RCSLT for the relevant Trustee to provide the services for the remuneration, (b) the terms are set out in a written contract between the RCSLT and the relevant Trustee, (c) the remuneration does not exceed an amount which is reasonable in all the circumstances, (d) not more than a minority of members of the Board are so remunerated, and (e) the arrangements are in accordance with, and subject to the conditions in, Section 185 of the Charities Act 2011.

The RCSLT Articles of Association clause 54 (g) states:

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54. The office of a Trustee shall be vacated:
(g) if he/she is directly or indirectly interested in any contract with the RCSLT and fails to declare the nature of his/her interest as required by section 182 of the Companies Act 2006
## TRUSTEE CONFLICTS OF INTEREST DECLARATION FORM

I certify that I have read and understand the RCSLT Conflicts of Interest policy dated March 2017.

I wish to declare the following conflicts of interest (delete if not applicable)

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<th>Nature of conflict of interest (include date conflict arose)</th>
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I have no conflicts of interest to declare at this time (delete if not applicable)

I undertake to inform the Board of any conflicts of interest that arise, or may arise, in the future.

Name............................................................................

Date..............................................................................

Please send this completed form (a signed PDF will suffice, but please note that it must have a signature) to the Company Secretary at brian.gopsill@rcslt.org or by post to

Brian Gopsill  
Company Secretary  
RCSLT  
2 White Hart Yard  
London  
SE1 1NX
Q1. If a trustee has identified that a conflict of interest exists, has the Board considered whether the conflict is so serious that it should be removed or they should seek authority for it? If the trustees have decided against removing the conflict of interest or seeking authority for it, go to Q2.

Q2. Has the conflict of interest arisen because the trustee concerned will receive a benefit as a result of the decision? If yes, go to Q3. If not, go to Q4.

Q3. Is the benefit authorised:
   - by the charity’s governing document?
   - by a statutory provision such as section 185 of the Charities Act?
   - specifically, by the Charity Commission?

If no, the trustees must apply to the Commission for authority for the benefit. Go to Q5.

If yes, have the charity’s trustees complied strictly with the terms of the authority? Go to Q5.

Q4. Even though there is no trustee benefit, are there procedures in place to ensure that the decision can be made only in the best interests of the charity?

If no, the trustees should take advice on their decision, and for the future, ensure that suitable conflicts of interest procedures are put in place and followed. If yes, go to Q6.

Q5. Have the charity’s trustees checked whether they are required to disclose the trustee benefit in the annual report and accounts? Go to Q6.

Q6. Have the trustees made a record of the conflict, their approach to dealing with it, and their decision?