

CONFLICTS OF INTEREST POLICY

1. Background

All Directors have a legal duty to act only in the best interests of their Community Interest Company (CIC). They must not put themselves in any position where their duties as a director or member may conflict with any personal interest they may have.

Director's personal and professional connections can bring benefits to the work of the CIC and they often form part of the reason why an individual has been asked to join the body. However, they can give rise to conflicts of interest, to which the Directors must respond effectively.

Conflicts of interest can lead to decisions that are not in the best interests of the CIC and which are invalid or open to challenge. Conflicts of interest can also damage a CIC's reputation or public trust and confidence in CIC's generally. These harmful effects can be prevented where individual director's can identify conflicts of interest, and the company body acts to prevent them from affecting their decision making. Following this policy should ensure that they can do this. The existence of a conflict of interest does not reflect on the integrity of the affected director, so long as it is properly addressed.

The Social Enterprise Regulator expects directors to maintain sufficient awareness and internal systems to be able to identify and address effectively any conflicts of interest that affect them or their charity. The Charity Commission published guidance '[CC29-Conflicts of Interest: a guide for charity trustees](#)' is available on the Charity Commission website and provides more detailed information to assist directors in acting appropriately, for Trustees we can read Directors. It should be read in conjunction with this policy.

The same principles apply to senior staff within the CIC, who should declare any conflict of interest to the Chairman of the CIC or in the case of the Chairman to another director.

2. Definitions

- A **conflict of interest** is any situation in which a director's personal interests or loyalties could, or could be seen to, prevent them from making a decision only in the best interests of the CIC, where there is a potential financial or measurable benefit directly to a director, or indirectly through a connected person. A conflict of interest exists even where there is the possibility that a director's personal or wider interests could influence the director's collective decision making.
- A **conflict of loyalty** is a particular type of conflict of interest, in which a director's loyalty or duty to another person or organisation could prevent the director from making a decision only in the best interests of the charity.
- A **connected person** means family, relatives or business partners of a director, as well as businesses in which a director has an interest through ownership or influence. The term includes a director's spouse or unmarried or civilpartner, children, siblings,

grandchildren and grandparents, as well as businesses where a director or family member holds at least one-fifth of the shareholding or voting rights.

- A **related party** is a term defined in Charity SORP (FRS102) that combines the requirements of charity law, company law and the Financial Reporting Standard applicable in the UK. It identifies those persons or entities that are closely connected to the CIC or its directors (Appendix A).
- **Related party transactions** are the transfer of resources, services or obligations between related parties, regardless of whether a price is charged.
- **Director benefit** includes any payments or benefits to directors or a connected person, apart from their reasonable out of pocket expenses. The term also covers situations where a director could receive property, loans, goods or services from the CIC.

3. The law

3.1 The CIC has been formed under a social enterprise arrangement and therefore the directors are its Chair persons. The Companies Act 2006 places statutory duties and responsibilities with regards to conflict of interest and Chairman benefits. These are covered by CC29.

3.2 Failure to act properly where there is a conflict of interest is a breach of these legal responsibilities.

3.3 Directors have a personal responsibility to declare conflicts of interest if they are to fulfil their legal duty to act only in the best interests of the CIC.

3.4 Where a conflict of interest is declared or identified the Board of Directors must ensure that there is appropriate authority in place to enable them to decide to confer any benefit to the director concerned. This will come from:

- a clause in the CIC's governing document (see 3.5 below)
- a statutory provision such as the power which allows CIC's to pay directors for additional services they provide to the CIC over and above normal director duties
- the CIC Regulator
- the Court

3.5 The CIC's governing document includes the following paragraphs in relation to conflicts of interest:

"Whenever a matter is to be discussed at a meeting or decided in accordance with Article 18 and a Director has a Conflict of Interest in respect of that matter then, subject to Article 20, he or she must:

- remain only for such part of the meeting as in the view of the other Directors is necessary to inform the debate;
- not be counted in the quorum for that part of the meeting; and
- withdraw during the vote and have no vote on the matter."

Nothing in this document shall prevent any payment in good faith by the Company: of the usual professional charges for business done by any Director who is a solicitor, accountant or other person engaged in a profession, or by any partner of his or hers, when instructed by the

Company to act in a professional capacity on its behalf: Provided that at no time shall a majority of the Board benefit under this provision and that a Director shall withdraw from any meeting at which his or her appointment or remuneration, or that of his or her partner, is under discussion;

Except to the extent permitted by the clause above, no member of the Board shall take or hold any interest in property belonging to the Company or receive remuneration or be interested otherwise than as a Director in any other contract to which the Company is a party.”

4. Process

4.1 Identify any conflicts of interest

- A copy of CC29 and this policy is included in the induction pack given to all directors on their appointment, to provide guidance on identifying potential conflicts of interest.
- Every director and senior employee is asked annually to make an updated declaration of interests (Appendix B), including business and personal interests and those of their spouse, partner, family and close relatives, which is kept on file.
- Each individual director must avoid putting themselves in a position where their duty to act only in the best interests of the CIC could conflict or appear to conflict with any personal interest they may have.
- Where a perception of a conflict of interest is not accurate because there is no conflict of interest, the directors should always be able to respond appropriately to the situation by managing the risks to the CIC and being prepared to explain how they have made their decisions only in the best interests of the CIC.
- If a director is uncertain whether or not he or she is conflicted, he or she should err on the side of openness, declaring the issue and discussing it with the other directors.
- If a director is aware of an undeclared conflict of interest affecting another director, they should notify the other directors or the Chair.

4.2 Prevent the conflict of interest from affecting the decision

- In addition to the annual declaration of interests, at each director meeting there is a formal opportunity for directors to declare any interest in any item to be discussed.
- Directors 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. In cases of serious conflicts of interest they may decide that removing the conflict of interest is the most effective way of preventing it from affecting their decision making and demonstrating that they have acted only in the best interests of the CIC.
- They must follow any legal or governing document requirements which say how the conflict of interest must be handled and be satisfied that doing so is an appropriate way of demonstrating that their decision was made only in the best interests of their CIC.
- Before making any decisions the Board of Directors should determine the appropriate course of action by consulting Charity Commission guidance (CC29) and, if necessary, taking legal advice.
- In most cases the conflicted director should withdraw from relevant meetings, discussions, decision making and votes. Affected directors 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, directors should carefully handle any participation by a conflicted director.

- Directors must be able to demonstrate that their decision was made only in the best interests of the CIC.
- Directors may, exceptionally, need to seek the authority of the Regulator where the conflict of interest is so acute or extensive that the directors consider they are unable to clearly demonstrate that they have acted in the best interests of the CIC.

4.3 Record the conflict of interest

Directors should formally record in writing any conflicts of interest and how they were handled, showing:

- the nature of the conflict
- which director or directors were affected
- whether any conflicts of interest were declared in advance
- an outline of the discussion
- whether anyone withdrew from the discussion
- how the directors took the decision in the best interests of the CIC

APPENDIX A

Related party

This is a term used by the CIC SORP (FRS102) that combines the requirements of Charity law, company law and the Financial Reporting Standard applicable in the UK and the Republic of Ireland. The term is used to identify those persons or entities that are closely connected to the reporting CIC or its directors.

The following 'natural persons' are classed as related parties:

- A. any CIC director and custodian director of the CIC;
- B. a person who is the donor of any land to the CIC (whether the gift was made on or after the establishment of the CIC); and
- C. any person who is:
 1. a child, parent, grandchild, grandparent, brother or sister of any such director (A) or donor (B) of land;
 2. an officer, agent or a member of the key management personnel of the CIC;
 3. the spouse or civil partner of any of the above persons (A, B, C1 and C2);
 4. carrying on business in partnership with any of the above persons (A, B, C1, C2 and C3);
 5. a person, or a close member of that person's family, who has control or joint control over the reporting CIC;
 6. a person, or a close member of that person's family, who has significant influence over the reporting CIC. '

Close member of a person's family' refers to:

- a. that person's children or spouse;
- b. the children, stepchildren or illegitimate children of that person's spouse or domestic partner;
- c. dependents of that person; and
- d. that person's domestic partner who lives with them as husband or wife or in an equivalent same-sex relationship.

A CIC is not necessarily related to another CIC simply because a particular person happens to be a director of both. It will only be 'related' if the relationship means that one CIC, in furthering its aims, is under the direction or control of the directors of another CIC. The following entities, which are not 'natural persons', are classed as related parties of a reporting entity (including a reporting CIC) if any of the following conditions apply:

- the entity and the reporting CIC are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others);
- one entity is an associate or joint venture of the other entity (or a member of the group in which the other entity is the parent or a member);
- both entities are joint ventures of the same third entity;
- one entity is a joint venture of a third entity and the other entity is an associate of the third entity;
- the entity is a post-employment benefit plan for the benefit of employees of either the reporting entity or an entity related to the reporting entity;
- an entity that is controlled or jointly controlled by a person, or two or more persons, identified in A, B or C;
- an entity in which a person, or two or more such persons, identified in A, B or C, taken together, have a substantial interest or significant influence over the entity;

Control is presumed to exist when one or more persons identified in A, B or C, taken alone or together, hold directly or indirectly, more than half the voting power of an entity. However, control can also exist when they, directly or indirectly, control half or less than half of the voting power of an entity, if they have:

- power over more than half of the voting rights by virtue of agreement with other investors;
- the power to govern the financial and operating policies of the entity under a statute or an agreement;
- the power to appoint or remove the majority of the members of the board of Chairmans or equivalent governing body, and control of the entity is by that board or body; or
- the power to cast the majority of votes at the meetings of the board of Chairmans or equivalent governing body, and control of the entity is by that board or body.

An individual has a substantial interest or significant influence in an entity where that person, or two or more persons identified in A, B or C, taken together, have an interest in the equity share capital of that entity of a nominal value of more than one-fifth of that share capital, or is entitled to exercise, or control the exercise of, more than one-fifth of the voting power at any general meeting of that entity

Form for declaration of interests by Directors and senior management of Community Tech Hub (CTH)

Please record your interests under the appropriate heading in the table below.

<p>1 Remuneration</p> <p><i>List the names of any organisations (including your present employer) from which you currently draw a salary or other remuneration including honoraria, long-term or regular consultancies, and any Chairmans' fees or other emoluments from private companies or PLCs. Short-term or one-off consultancies need not be included unless the organisation concerned is likely – or possibly seeking – to do business with RTD. In no case are you expected to disclose the level of salary or other payments.</i></p>
<p>2 Chairmanships</p> <p><i>List the names or any private companies or PLCs of which you are currently a Chairman, or of which you have been a Chairman at some point during the last three years, or of which you expect to become a Chairman within the next year (whether paid or unpaid). You are not expected to disclose the level of any Chairmans' fees or other emoluments.</i></p>
<p>3 Significant Share-Holdings</p> <p><i>List the names of any companies or businesses – whether private or publicly-quoted – in which you hold a significant share-holding. 'Business' should be taken to include consultancies, partnerships and the like; you will be deemed to have a 'significant share-holding' if you own more than 5 per cent or more of the business (normally 5 per cent or more of the issued share capital). You are not expected to disclose the level of your financial interest in these companies or businesses.</i></p>
<p>4 Grants received from CTH</p> <p><i>List the names of any related organisations, which you are a director/member/Chairman of, that receive grants from RTD</i></p>
<p>5 Unremunerated work in the pursuance of activities related to those of CTH</p> <p><i>List the names of any unpaid offices you hold – for example, in a company, higher education institution, CIC or not for profit or public body – which you consider might have a bearing on your role as a director or member of the senior management team of RTD. You should include any CIC directorships you hold, or any other way in which you participate in the management of a CIC or not for profit organisation.</i></p>

6 Membership of organisations or associations including political pressure groups where their objectives bring you into conflict with the activities and objects of CTH.

7 Family Interests

List any interests you have through members of your family having interests which might be considered to have a potential to influence the exercise of impartial judgement by you in your connection with CTH

I declare that the interests recorded below include each and every interest which might be considered to have a potential to influence the exercise of impartial judgement by me in my connection with **CTH** for the year ended 31 March 20xx

Name:

Role:

Signature:

Date: