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CONFLICT OF INTEREST POLICY



Housing Justice is the national voice of Christian action to prevent homelessness and bad housing. We believe that human dignity is challenged by the lack of a decent home, and aim to mobilise Christians united in their determination to work with and for homeless and badly housed people.

Housing Justice recognises the regulations of the Charity Commission (as set out in the Charities Act 2011), and is committed to upholding best practice with regard the requirements attached to the area of Conflict of Interest. This policy covers the charitable activities of Housing Justice, including its grant programme (in partnership with the GLA).

1. Definitions within this policy document

- i. Housing Justice appreciates the Charity Commission uses the word 'must' in operational guidance where there is a specific legal or regulatory requirement Housing Justice must comply with. 'Should' relates to recommended (minimum) good practice steps, which Housing Justice should follow unless there is a good reason not to.
- ii. 'Breach of duty' means a breach of any trustee duty. The duties of the Housing Justice's trustees are set out and covered by The Charities Act 2011 and the Companies Act 2006.
- iii. Connected person: in broad terms this means 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.
- iv. Trustee benefit: any instance where money, or other property, goods or services, which have a monetary value, are received by a trustee from Housing Justice. The law says that trustees cannot receive a benefit from their charity, 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 authorised 'out of pocket' expenses.
- v. The 'conflict of interest' focused upon by this policy document, covers both **'potential' and 'actual'**. Housing Justice is aware 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. Further, even the perception that there is a conflict of interest can damage the charity. Where the perception is not accurate because there is no conflict of interest, the trustees will always respond appropriately to the situation by managing the risks to the charity and being prepared to explain how they have made their decisions only in the best interests of the charity.

Housing Justice understands:

2. Trustees and Best Interest

- i. 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.
- ii. 'Personal interest' is defined as either:
 - a. Financial benefit or otherwise – either direct or indirect (through a connected person) (Housing Justice recognises all benefits must be authorised and recorded in the charity's accounts. 'Authorised benefits' are outlined by the Charity Commission in section 185 of the Charities Act 2011, and are addressed in their 'trustee remuneration' policy) In summary, the term trustee benefit includes 'any' payments or benefits to trustees or a connected person, apart from their reasonable out of pocket expenses. The term also covers situations where a trustee could receive property, loans, goods or services from the charity. Where there is a proposed sale or lease of charity land to a trustee, or to a person or company closely connected with a trustee, this will need to be authorised by the Commission. This applies even if the disposal is at full market value. The law says that trustees can only benefit from their charity where there is an explicit authority,

obtained in advance. Authority will come either from: i) a clause in the charity's governing document ii) a statutory provision such as the power in the charities act which allows charities, in some circumstances, to pay trustees for additional services they provide to the charity over and above normal trustee duties iii) the Commission vi) the court.

- b. A duty or loyalty held to another organisation or person.
 - c. Involvement in an organisation which operates in the same sphere as Housing Justice and who may benefit from Housing Justice's facilitative role.
 - d. Trusteeship in an organisation that operates in the field of homelessness or housing that may be perceived to gain benefit from that relationship
- iii. The above list should be used as guidance but staff members and trustees are asked to declare anything that has the potential for conflict even if they are not sure. It is better to look at anything with potential and put aside if there is not deemed to be any real potential for conflict (see Appendix A and B).
- iv. This policy document adheres to the regulatory requirements and best practice guidance by the Charity Commission which centres on the Trustees' roles and responsibilities concerning Conflict of Interest identification, Prevention and Record procedures. However, Housing Justice notes its staff too, have a duty to comply with such procedures to uphold and safeguard the charitable objectives and resources of Housing Justice. Therefore, this policy will be distributed to both trustees and staff, with both required to follow the points and steps within.
- v. Conflicts of interest are common in charities. However, the trustees will act to prevent them from interfering with their ability to make a decision only in the best interests of Housing Justice.

3. Conflict of Interest: The Charity Commission's Expectations

- i. Housing Justice understands the Charity Commission expects its trustees to follow a 3 step approach (**identify, prevent and record**) to comply with trustee duty and avoid the negative consequences of a conflict of interest.
- ii. These consequences include:
 - a. A risk to Housing Justice's reputation
 - b. A decision being overturned
 - c. A trustee having to repay Housing Justice if an unauthorised payment is made.
- iii. Housing Justice is committed to a transparent operation, and will consider making their 'conflict of interest' policy available to the public.
- iv. Housing Justice consider conflicts of interest a pre-appointment issue. Prospective trustees will be asked about potential conflicts of interest, and any conflicts will 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, Housing Justice's trustees will seriously consider whether that trustee should be appointed.

4. Conflict of Interest: Identification

- i. To uphold their duty to the best interests of Housing Justice, trustees are aware of the requirements to identify any conflicts of interest at an early stage. The following steps are to be implemented by Housing Justice and its trustees, so trustees are able to identify and declare any conflicts of interest, to ensure decisions are made in the best interests of Housing Justice.
 - a. Each trustee meeting will begin with a standard agenda item to allow any potential or actual conflicts of interest to be declared (and dealt with appropriately).
 - b. To uphold best practice by holding a written 'Conflict of Interest' policy, guiding trustees on how to identify and disclose conflicts of interest.
 - c. To keep a 'register of interests' which records trustees potential and actual interests which may conflict with their duty as trustee of Housing Justice. Housing Justice are committed to amending this register as and when appropriate, should the circumstances of any trustee change. This is to be held and managed by the Chief Executive Officer (CEO) of Housing Justice.
 - d. Updating the Charity Commission as to the status and management of Conflict of Interest, by way of a submitted record annually (See appendix A for an 'Annual Declaration of interest' form the trustees of Housing Justice must complete. See appendix B for an 'Annual Declaration of interest' form the staff of Housing Justice must complete.) This is to be held and managed by the CEO of Housing Justice.
 - e. Gifts which are received have the potential to be viewed as creating an environment of pressure/ undue influence.
 - f. If gifts are offered they should be politely declined unless their value is seen to be minimal (under £10 per item).
 - g. If the gifts arrive unexpectedly, or it would cause offence to refuse them, please alert the Chief Executive.
 - h. All gifts received should be notified to the Chief Executive, who will ensure a log is kept of them and advise what to do with the gift. Gifts of small value can generally be kept or shared with colleagues. Gifts of larger value will generally be donated or raffled.
- ii. The purpose of this procedure is to:
 - a. Ensure that there is no favour shown towards an organisation or company that we work with because of relationships with trustees or staff at Housing Justice
 - b. Provide visibility of the potential conflicts in order to protect the trustee or staff member from any perceived conflict
 - c. Provide protection for the potentially conflicted trustee or staff member and the organisation by ensuring that the organisation manages in engagement in a way that enables the potential conflict to be disclosed and managed
 - d. Be able to fully withstand scrutiny and able to demonstrate potential conflicts are well managed.

5. Conflict of Interest: Prevention

- i. The trustees of Housing Justice must make their decisions only in the best interests of the charity. The issue of the 'conflict of interest' must be considered so any potential effect on decision making is eliminated.
- ii. In cases of serious 'conflict of interest' the trustees will act appropriately in accordance with the circumstances, these actions may include:
 - a. Removal of the 'conflict of interest' 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
- iii. In cases of less serious 'conflict of interest' (and if the above actions in (a) are not chosen, the trustees:
 - b. Must follow any specific requirements in the law or Housing Justice's governing document, which deals with the management of conflicts of interest. In the absence of such clauses in the governing document, Housing Justice require conflicted trustees to withdraw from relevant meetings, discussions, decision making or voting (once the Conflict of Interest has been identified).
 - c. Housing Justice will consider updating their governing document to include provisions relating to the issue of 'Conflict of interest', should these ever be found lacking.
- iv. In exception circumstances, where the Conflict of interest is so acute or extensive (and compliance with the above steps does not demonstrate the trustees have acted in the best interest of Housing Justice). Housing Justice will seek authority from the Charity Commission on how the issue should be handled (examples of such a situation include – i) unauthorised trustee benefits, ii) there is a challenge to removing a serious conflict of interest iii) most or all of Housing Justice's trustees share the conflict of interest.

6. Conflict of Interest: Record

- i. Housing Justice is committed to the best practice of formally recording any conflicts of interest and how these were handled. Information to include:
 - a. The type of conflict of interest faced
 - b. Which trustees(') were affected
 - c. If the conflict of interest was declared, and at which stage
 - d. An outline of the discussion
 - e. If the trustee withdrew from the discussion
 - f. How the other trustees made a decision as to how to manage the conflict of interest, and maintain the trustee's duty to upholding Housing Justice's best interests.
- ii. The CEO will keep a central record of declared interests and the management of them. Any new potential conflicts that arise between declarations should be notified to the CEO.

7. Charity Commission: Corrective Regulatory Advice and Action

- i. Housing Justice fully understands the Commission will intervene where it has concerns about trustee misconduct or mismanagement or if there is a risk to charity property.
- ii. Where the impact of the decision subject to the conflict of interest is highest the Commission will give corrective regulatory advice.
- iii. Regulatory advice will specify what the trustees should do to remedy the situation and to ensure that it doesn't recur. The action plan often requires the serving trustees to decide whether to take action themselves to recover any sums lost to the charity. Very often it means that the serving trustees are required to appoint new independent trustees to work with them.
- iv. The Commission will monitor the trustees' implementation of the required improvements, within a stipulated timescale. Any failure to fully implement the required improvements is likely to be regarded as misconduct or maladministration of the charity and can lead to the use of its powers.
- v. The Commission will intervene using its investigative powers in serious/high risk cases. This will usually be where the issue or allegation presents a serious risk to the charity or to public confidence in charities generally.
- vi. For example, where it seems that trustees have deliberately or negligently placed their own interests ahead of those of the charity and have, as a result, gained significant benefit at the expense of the charity, the Commission will use its powers to:
 - Stop abuse, trustee misconduct and mismanagement – this includes where the trustees fail to fully take steps to resolve the issues or are incapable of doing so
 - Intervene in a charity's affairs and take steps to recover any sums lost to charity, where the trustees are unable or unwilling to do so, and the amount involved is significant
- vii. If the Commission finds evidence of or suspect criminal activity it will refer the matter to the police and other relevant agencies and, if the public interest justifies it, use its own powers of intervention. In all cases where it intervenes, whether by giving corrective regulatory advice requiring action or using its powers, it will take a stronger line and be less tolerant where it has previously engaged with the charity about the same, or similar, issues.

Appendix A: Annual Declaration of Interests form for Trustees

Name of Trustee	
Who is your employer if in paid work?	
Do you serve as a trustee on any other boards? If so which.	
Are you related to/have a close relationship with any Housing Justice employee? If so, please state who.	
Are you related to/have a closer relationship with someone who works for, or is a trustee of any partner organisations? If so please state who.	
Do you have any financial relationship with any suppliers of services for Housing Justice?	
Are you a member of a church? If so, which church? Does this church have a relationship with Housing Justice?	
If you have identified any potential Conflicts of Interest how are you managing these?	

Appendix B: Annual Declaration of Interests form for Staff

Name of Staff Member	
Do you have any other paid employment?	
Do you serve as a Trustee on any boards? If so which?	
Are you related to/have a close relationship with any Housing Justice employee? If so, please state who.	
Are you related to/have a closer relationship with someone who works for, or is a trustee of any partner organisations? If so please state who.	
Do you have any financial relationship with any suppliers of services for Housing Justice?	
Are you a member of a church? If so, which church? Does this church have a relationship with Housing Justice?	
If you have identified any potential Conflicts of Interest how are you managing these?	

Q1.

If a trustee has identified that a conflict of interest exists, has the trustee body 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 come up 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 charity's 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 charity's trustees made a record of the conflict, their approach to dealing with it, and their decision?

Sources:

Charity Commission, 2014, Conflicts of interest: a guide for charity trustees (CC29).

Charity Commission, 2016, Charity reporting and accounting: the essentials November (CC15d).

Charity Commission, 2016, Guidance Charities and risk management (CC26)

Charity Commission, 2016, Chapter 2: Due diligence, monitoring and verifying the end use of charitable funds in Compliance toolkit: Protecting Charities from Harm

Charity Commission, 2016, Chapter 3: Fraud and financial crime in Compliance toolkit: Protecting Charities from Harm

Saffery Champness, 2015, Guidance for grant making charities on SORPs 2015

Association of Charitable Foundations, 2008, Tackling External Grant Fraud: a guide to help charitable trusts and foundations deter and detect fraud

Firth. L., 2017, Developing decision making processes and tools.



Housing Justice