

Early Education

Conflicts of Interest policy

What is a conflict of interest?

The Charity Commission defines a conflict of interest as “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 charity”.

Conflicts can either arise where there is the possibility of a trustee gaining a personal benefit in a situation, or where they have a competing loyalty to another organisation or person. It is important when considering conflicts of interest to remember that the duties do not apply only to financial benefit or pecuniary interests, but also to any form of duty or obligation, transaction, interest, situation or receipt of information which creates a conflict.

It should be noted that the trustee themselves need not be the person directly gaining the benefit in order for a conflict to occur. If a person connected with the trustee may gain a benefit, this will also satisfy the test. Persons connected include family members, relatives, business partners or businesses in which a trustee has an interest.

Early Education Policy

As trustees are under a legal obligation to act in the best interests of the charity, Early Education has the following measures in place to assist trustees to address and remedy any conflict of interest which may impair the decision-making ability.

On an annual basis, following elections at the AGM, trustees are required to complete a Declaration/Register of Interests. This applies both to existing and new trustees. The register will be disclosed to the Board.

The agenda for each meeting will include a standing item on Conflict of Interest so that trustees may declare any actual or potential conflict of interest in any of the items on that particular agenda. Once a conflict is declared, the trustees should consider how best to proceed in order to minimise the impact of the conflict and ensure that they act in the charity’s best interests. This may involve removing the trustee from the decision-making process or in extreme cases, necessitate the resignation of the conflicted trustee.

Early Education keeps written records of its Board meetings to show how trustees deal with any conflicts of interest that arise. Trustees thereby ensure that should any of their decisions later be questioned, they can respond with confidence (and evidence) that they acted in the charity’s best interests.

What happens if a charity falls foul of the rules?

If a conflict of interests is allowed to influence the trustees’ collective decision making so that they do not act in the charity’s best interests, the trustees have breached their legal duty. Accordingly, they could be made to repay any sums paid out by the

charity or any loss suffered by the charity. Furthermore, the Commission or another interested party could challenge the action of the charity and the relevant decisions could be declared void. The Commission will only take such action in serious cases. However, reputational consequences are potentially significant.

See also Early Education's Articles of Association, paragraphs 22 to 29 on Conflicts of Interest:

CONFLICTS OF INTEREST

Declarations of interest

22. A Trustee must declare the nature and extent of:

22.1 any direct or indirect interest which he or she has in a proposed transaction or arrangement with the Charity; and

22.2 any duty or any direct or indirect interest which he or she has which may conflict with the interest of the Charity or his or her duties to the Charity.

23. There is no need to declare any interest or duty of which the other Trustees are, or ought reasonably to be, already aware.

Participation in decision-making

24. If a Trustee's interest or duty cannot reasonably be regarded as likely to give rise to a conflict of interest or a conflict of duties with or in respect of the Charity, he or she is entitled to participate in the decision-making process, to be counted in the quorum and to vote in relation to the matter. Any uncertainty about whether a Trustee's interest or duty is likely to give rise to a conflict shall be decided by a majority decision of the other Trustees taking part in the decision-making process.

25. If a Trustee's interest or duty gives rise (or could reasonably be regarded as likely to give rise) to a conflict of interest or a conflict of duties with or in respect of the Charity, he or she may participate in the decision-making process and may be counted in the quorum and vote unless:

25.1 the decision could result in the Trustee or any person Connected with him or her receiving a benefit other than:

25.1.1 any benefit received in his, her or its capacity as a beneficiary of the Charity and which is available generally to the beneficiaries of the Charity;

25.1.2 the payment of premiums in respect of indemnity insurance effected in accordance with Article 4.4.8;

25.1.3 payment under the indemnity set out at Article 6; and

25.1.4 reimbursement of expenses in accordance with 4.4.1; or

25.2 a majority of the other Trustees participating in the decision-making process decide to the contrary, in which case he or she must:

25.2.1 take part in the decision-making process only to such extent as in the view of the other Trustees is necessary to inform the debate;

25.2.2 not be counted in the quorum for that part of the meeting; and

25.2.3 withdraw during the vote and have no vote on the matter.

Authorisation of conflicts

26. The other Trustees may exercise the powers in the Companies Acts to authorise a situation in which a Trustee has a conflict of interest or conflict of duties but this power cannot be used to enable a Trustee or person Connected with him or her to obtain a benefit which is not expressly permitted under these Articles.

Continuing Duties to the Charity

27. Where a Trustee or person Connected with him or her has a conflict of interest or conflict of duties and the Trustee has complied with his or her obligations under these Articles in respect of that conflict:

27.1 the Trustee shall not be in breach of his or her duties to the Charity by withholding confidential information from the Charity if to disclose it would result in a breach of any other duty or obligation of confidence owed by him or her; and

27.2 the Trustee shall not be accountable to the Charity for any benefit (other than one expressly prohibited by or under these Article) which he or she or any person Connected with him or her derives from any matter or from any office, employment or position.

28. Register of Trustees' interests

The Trustees must cause a register of Trustees' interests to be kept. A Trustee must declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the Charity or in any transaction or arrangement entered into by the Charity which has not previously been declared.

29. Validity of Trustee actions

All acts done by a person acting as a Trustee shall, even if afterwards discovered that there was a defect in his or her appointment or that he or she was disqualified from holding office or had vacated office, be as valid as if such person had been duly appointed and was qualified and had continued to be a Trustee.