

Parochial Church Council of the Ecclesiastical Parish of All Saints' Sidmouth

Conflict of Interest Policy

1. Introduction

Those responsible for administering a charity (the 'charity trustees') must act in the best interests of the charity. Amongst other things, that requires them to avoid anything that prevents decisions being taken by reference to other considerations. It also follows that charity trustees need to avoid putting themselves in a position in which their duty to act only in the best interests of the charity could conflict with any personal interest they may have.

This has implications in practice for both individual charity trustees and for the charity trustees collectively:

- individual charity trustees must identify and declare any conflict of interest on their part; and
- the charity trustees collectively must ensure that they have arrangements in place that enable conflicts of interest to be identified and dealt with effectively.

The early identification of conflicts of interest is therefore key to ensuring that both individual charity trustees and the charity trustees collectively do what is expected of them.

A conflict of interest policy is designed to ensure that the discussions and decisions of the charity trustees are not influenced by any other interests. Its purpose is to make sure that everything that may affect an individual charity trustee's contribution to a decision is identified, dealt with appropriately and recorded. For general guidance to charities, trustees should read the Charity Commission's guidance soon after their appointment¹.

A Parochial Church Council (PCC) is in no different a position in these respects from any other charity. Its charity trustees (i.e. all the individual members of the PCC) are under a legal obligation to act in its best interests. The church does not, however, operate in a vacuum: both it and its members form an integral part of the life of the community. This can give rise to conflicts of interest for individual members of the PCC where the best interests of the PCC may be at odds with those of other community organizations. And other conflicts of interest may arise from personal or family circumstances.

Where a conflict of interest is not identified and dealt with appropriately, it can result in decisions or actions that are not in the best interests of the PCC and/or which, in the case of interests of a personal kind, can confer an unauthorised benefit on one or more members of the PCC. [See also the Parish Resources *Guidance Note: PCC members and private benefit*²]

Conflicts of interest can take many forms. Some will make it inappropriate for the individual to participate in a discussion or decision; others may simply need to be identified and declared, so allowing the individual to continue to contribute their experience and expertise to the matter at hand.

¹ <https://www.gov.uk/guidance/manage-a-conflict-of-interest-in-your-charity>

² <http://www.parishresources.org.uk/wp-content/uploads/remunerationguidance.pdf>

2. Policy

1. This policy applies to all members of the PCC, the Standing Committee and any other committees or working parties set up by the PCC.
2. A conflict of interest is any situation in which a member's personal interests or loyalties could prevent, or could be seen to prevent, the member from making a decision only in the best interests of the PCC. Such a situation may arise either:
 - (a) where there is a potential financial benefit to a member, whether directly or indirectly through a connected person (such as a close family member or business partner); or
 - (b) where a member's duty to the PCC may compete with a duty of loyalty he or she owes to another organisation or person (e.g. by virtue of being a trustee or committee member of a body which has an interest in the matter).
3. It is desirable that any conflicts of interest are declared to the Chair of the meeting as soon as the agenda is circulated. They must also be declared at the meeting when the relevant agenda item is reached.
4. Subject to paragraph 6, where a conflict of interest arises in connection with a personal benefit, the member concerned must withdraw from the meeting and not take part in any discussions relating to it (including discussions for the purpose of obtaining any authority from the Charity Commission that would be required to authorise the benefit – see the *Guidance Note: PCC members and private benefit*).
5. Subject to paragraph 6, where a conflict of loyalty arises, the PCC will consider what level of participation, if any, is acceptable on the part of the conflicted member, having regard to the duty to act in the best interests of the PCC. However, the normal expectation will be that the conflicted member should withdraw from the meeting during discussion of the item of business in question.
6. A member need not withdraw from a meeting if his or her interest (whether financial or non-financial) is common to a class of persons and is neither (i) significant nor (ii) substantially greater than the interests of other members of that class.
7. The existence of a conflict of interest must be recorded in the minutes, together with the decision as to how it should be dealt with.

3. The consequences of not acting within this policy

1. Where trustees don't identify or properly respond to a conflict of interest, there can be serious consequences for the affected trustee, the charity, and public trust and confidence in charities generally.
2. Where trustees have acted outside the terms of the charity's governing document or the law, their decision may not be valid. It could be challenged by the Charity Commission or by an interested party, such as a beneficiary of the charity.
3. Where trustees fail to act properly or make a mistake the Charity Commission always expects them to act promptly to put things right and prevent a recurrence of the same or similar issue.
4. Where trustee actions or failings present a serious risk to the charity, the Commission is likely to regard this as mismanagement or misconduct and to take remedial action.

4. Remedial action by the trustees

Where:

- the impact of the conflict of interest on the charity is low
- there is little or immaterial loss or damage to the charity
- the trustees can show that the failure to act properly was an error

the Charity Commission's minimum expectation of trustees is that they:

- take reasonable steps to assess and manage any risks to the charity's work and reputation
- make a full record of the issue and how they have handled it
- review the Conflicts of Interest policy, ensure that all trustees are made aware of its content and meaning, and fully implement the policy in the future

5. Corrective regulatory advice

1. Where the impact of the decision subject to the conflict of interest is higher, the Charity Commission will give corrective regulatory advice. Factors which may have a higher impact on the charity include conflicts of interest which are associated with unauthorised trustee benefit, other loss of charity funds, bad publicity for the charity or potential damage to public trust and confidence in charities generally.
2. 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 act 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.
3. The Charity 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 The Charity Commission's regulatory powers.

6. Approval

1. This policy was last reviewed and approved by the PCC on 11 May 2021