support cambridgeshire

Managing Conflict of Interest:

A conflict of interest exists when a member of a governing body has an interest, duty or obligation which may directly or indirectly conflict with the duty they owe the organisation.

Source: Voluntary Sector Legal Handbook 3rd Edition

Examples of potential conflicts of interest could be:

- A trustee who wishes to apply for a job opportunity within the organisation whilst wishing to remain as a member of the board.
- A trustee who wishes to be paid for his involvement.
- The founder of a charity who wishes to be both CEO and the Chair of the board of trustees.
- A trustee who wishes to be a board member for two charities working in the same geographical location, both of whom provide services to similar groups and individuals.

Governing body members provide leadership to their organisation and make sure the organisation achieves what it set out to achieve in its charitable objects. They have a role in ensuring the overall control of the organisation. Most governing body members are giving their time for free. The concept behind voluntary trusteeship is the fact that trustees should be fully objective over an issue and consequently money, or a benefit of any kind could bias their judgment to make decisions for the benefit of the public.

Conflicts are inevitable on occasions: The important thing is to know how to recognise them and know how to manage them. If it does not feel right, it probably isn't.

Why is it important to deal with conflicts of interest?

Trustees have a duty to act in the best interests of the charity and its beneficiaries. When issues outside the charity conflict with a trustee's duties, they are in a conflict of interest which could affect their decision making.

For example: A trustee's decisions could be influenced if they:

- Receive payment for some work they undertake for the charity.
- Work for a local authority that is possibly thinking of funding the charity.
- Are a charity beneficiary and the trustee board is considering changing its services.

If a conflict of interest isn't managed properly, it can create problems for your organisation: The Charity Commission have identified the following potential implications:

- Invalidating your organisation's decisions in the eyes of the law.
- Calling into question the motives behind trustees' decisions.
- Risking the charity's reputation and brand image.
- Preventing trustees from speaking freely at meetings.

Remember, a conflict of interest could be:

- Direct gain (such as a trustee receiving payment for an item of work).
- Indirect gain (such as a trustee's partner being employed by the charity).
- Non-financial gain (where the trustee is a consumer of the charity's services).

What do you do if you identify a conflict?

It is vital to deal with any potential conflict of interest at the earliest possible stage.

If a trustee has a conflict of interest, they need to declare this to the other trustees immediately: It is then a board discussion over whether that trustee can be part of any subsequent discussion and decision as normal, OR just part of the discussion but not the decision, OR if they must be precluded from any part of the discussion and decision process.

While acting as a charity trustee the first duty to the charity should be paramount: all other loyalties must be put to one side. It becomes challenging when some trustees have been appointed based upon a personal or professional situation they are in (beneficiaries, councillors, or a staff member of a competitive organisation).

If a trustee has a conflict of interest which creates a real risk of being influenced (or could be perceived to do so) they should withdraw from the relevant part of the meeting where the decision is to take place.

If this is not possible, then the organisation should engage its procedures on conflicts of interest. If this is simply not possible, or if the conflicts are so frequent as to limit a trustee's usefulness as a trustee, then they must stand down from one of the posts (this can be extremely difficult to manage and advice should always be sought).

There are other situations that are not allowed: Payment of trustees for example: Payment can only be allowed as an exception to the rule with a special authorisation from the Charity Commission, and allowed by the charity's governing document. You can find out more about the payment of trustees on the Charity Commission website: Trustee expenses and payments (CC11).

Measures:

You should always adopt measures to prevent conflict of interest before they become a real issue: There are a number of simple steps that you can take as a board that will ensure you know how to react when conflicts appear.

- Adopt a conflict of interest policy.
- Ensure that there is always a full disclosure prior to a trustee being appointed.
- Maintain a Register of interest, and update this annually.
- Ensure trustees have time and space to declare interests at board meetings.
- Ensure these discussions are recorded.
- Develop a culture where honesty and transparency are the norm, not the exception.

Remember:

- Follow the relevant provisions in your governing document.
- Follow your Conflict of Interest policy and procedures.
- Follow good practice. If a trustee benefits has it had prior and agreed authorisation?
- Record the conversations of your board.
- Maintain your annual register.

Further reading:

https://communitysouthwark.org/sites/default/files/images/Managing%20Conflicts%20of%20Interest.pdf

https://www.gov.uk/government/publications/conflicts-of-interest-a-guide-for-charity-trustees-cc29

http://www.smallcharities.org.uk/resources-conflict-interest/