

# THE SAM AND BELLA SEBBA CHARITABLE FOUNDATION: CONFLICT OF INTEREST AND LOYALTY POLICY

## Purpose of this document

All trustees, committee members and staff of The Sam and Bella Sebba Charitable Foundation (the 'Foundation') should familiarise themselves with this document. It is divided into two sections. Section 1 provides background information on trustees' (and committee members acting on trustees' behalf) duties in the context of conflicts of interest and conflicts of loyalty, including the law and Charity Commission's guidance on conflicts of interest. Section 2 sets out how the Foundation will address potential conflicts of interest and conflicts of loyalty in order to minimise these and maximise transparency.

## Section 1: Background Information on Conflicts of Interest

### What is a conflict of interest/loyalty?

A conflict of interest is any situation in which trustees' or committee members' personal interests, or interests through associations with other organisations, could influence, or appear to influence, their duties to the Foundation. A personal interest can be financial, non-financial but beneficial (e.g. a favour or meal offered by a charity) or relate to political, moral or ethical beliefs that a trustee or committee member may hold (which are usually referred to as 'loyalty' conflicts).

The Charity Commission, UK refers to conflicts of interest in a decision-making context as:

*"...any situation in which a Trustee's personal interests, or loyalties could, or could be seen to, prevent the Trustee from making a decision in the best interests of the charity."*<sup>1</sup>

All aspects of the operation of the Charity may be affected by conflicts of interest, not just decision-making. This conflict of interest policy therefore governs every aspect of the affairs of the Charity, from consideration of matters by the trustees and committee members to decision making and liaison with third parties.

### Why should the Foundation have a conflict of interest/loyalty policy?

Potential conflicts of interests and loyalty need to be identified and managed. If not managed, they may create problems and could, for example:

- Result in a breach of trust which could lead to a transaction being declared invalid and a trustee becoming liable to repay to the Foundation the value of any benefit received as a result of the conflict of interest
- Inhibit free discussion
- Result in decisions or actions that are not in the best interests of the Foundation
- Create the impression that the management of the Foundation lacks transparency

### What is the legal background to conflicts of interest/loyalty?

#### Conflicts of Interest

The trustees of the Foundation (and committee members acting on their behalf) have a legal duty to act in the best interests of the Foundation. Trustees or committee members must not, without authority from the Charity Commission or the court, put themselves in a position where their personal interests on the one

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<sup>1</sup> Charity Commission Conflicts of Interest: A guide for charity trustees CC29 (May 2014)

hand, and their duty to act in the best interests of the Foundation on the other hand, conflict or causes them to exploit their position for their own advantage.

If trustees do obtain unauthorised benefits as a result of their position as trustees, the Charity Commission may open an inquiry into the matter. They are unlikely to be sympathetic in a case where a conflict of interest/loyalty policy exists or where a trustee has taken, but not followed, legal advice.

#### Trustee Remuneration

The office of trustee is gratuitous. While trustees are entitled to be indemnified against costs and expenses incurred as a trustee, they are not, without authorisation, entitled to any allowance for their contribution or loss of time.

#### Identifying conflicts of interest

Set out below are the main ways in which conflicts of interest may occur.

#### Direct financial gain or benefit to a trustee

This includes for example:

- The award of a contract to an organisation in which a trustee has an interest or from which a trustee will receive a financial benefit
- The payment of a trustee for services as a director/consultant/employee of a connected organisation (e.g. one providing a service to the Foundation) or grantee

#### Indirect financial gain or benefit to a trustee

This includes for example:

- Employment of a close relative, such as a spouse, partner, parent or child of a trustee by the Foundation (because the finances of the trustee and the close relative could be interdependent and the trustee could therefore benefit indirectly from the arrangement)
- Employment of a close relative, such as a spouse, partner, parent or child of a trustee by a grantee

#### Non-financial gain by a trustee

This includes for example:

- Any non-financial benefit obtained through a decision taken by the trustees (such as where trustees decide to make a grant to a charity whose services personally benefit trustees or their close relatives)

#### Conflict of loyalties

This includes situations where trustees' duty to act in the best interests of the Foundation conflict with their duty to act in the best interests of another organisation which has appointed them as a trustee, where they act in a legal or ethical relationship of trust capacity, where they volunteer or where a close family member is involved. This does not need to include financial benefit but includes situations where a trustee or their close family member has decision-making powers within an organisation or represents the organisation publicly. If a trustee has queries over whether a specific situation gives rise to a conflict of loyalty, we should err on the side of caution and record that we have done so.

#### Benefits which do not give rise to a conflict of interest

Receipt of the following does not give rise to a conflict of interest:

- The repayment of reasonable out-of-pocket expenses to trustees (for example, travel to trustee meetings, accommodation, food or office expenses)
- Benefits that are generally available to the public (for example, copies of literature about the Foundation)

- Benefits that are of inconsequential or of little measurable value (for example, a branded pen given to trustees on a charity visit)

## Section 2: Conflict of Interest/Loyalty Policy

This policy applies to the trustees, committee members and staff of The Sam and Bella Sebba Charitable Foundation, who should all familiarise themselves with the explanatory document which precedes this policy.

The trustees acknowledge that it is inevitable that conflicts of interest/loyalty will occur. They are however committed to managing these conflicts in order to protect both the Foundation and the trustees, committee members and staff from any impropriety.

### Managing conflicts of interest and conflicts of loyalty

#### Declaration of Interests

The trustees need to ensure that conflicts are managed transparently even if no benefit is retained by a trustee.

In order to identify potential conflicts of interest or loyalty, the trustees must declare all their significant interests. A declaration of interest form is provided for this purpose, listing the types of interest which must be declared.

To be effective, the declaration of interests' form needs to be regularly updated, preferably annually. If a trustee is not sure what to declare, or whether the declaration needs to be updated, the trustee should err on the side of caution.

Benefits or gifts offered and accepted or refused (such as a meal given by a charity during a visit but not light refreshments) should be notified to the CEO and noted on the Register of Benefits.

#### Trustee and Committee meetings

At the start of each trustee or committee meeting, the trustees, committee members and staff should, as a matter of good practice, declare any potential conflict of interest or loyalty in the items to be discussed at the meeting. This should include any potential conflicts of interests or loyalty of close family members.

Trustees, staff and committee members declaring such an interest should be advised by trustees and the Executive present (or in the case of committee meetings by the committee members with no conflict of interest/loyalty and the Executive present), whether to withdraw from the discussion and/or decision on that item. Trustees or committee members should not attempt to influence the voting on a matter on which they have a conflict of interest or loyalty. In deciding what action, if any, to take the following should be considered:

- Whether the person with a potential conflict or a close relative of theirs has, or has had, a paid or voluntary position in a charity within the last five years which is managerial or that might impact on decision-making processes within the organisation – if so, they or the relevant family member should withdraw from discussions and voting
- Whether the person with a potential conflict or a close relative of theirs has donated and/or volunteered without managerial responsibility or influence on decision making processes – if so, declaration of a potential conflict of interest or loyalty at the start of the meeting should be sufficient
- Whether the potential conflict of interest or loyalty could create a reputational risk for the Foundation

**It may be helpful in deciding what level of action is needed if any, to pose the question ‘were this person not on this committee/Board would our decision be any different?’ If the answer is ‘yes’, the committee/Board needs to consider how the person’s membership has influenced the decision. If the answer is no, due diligence has been achieved. The question needs to be asked each time consideration is given to funding that charity – so on each renewal if applicable.**

All decisions taken relating to conflicts of interest or loyalty must be reported in the minutes of the meeting at which the decision is taken. The minutes should record:

- The nature and extent of the conflict
- The actions taken to manage the conflict

#### [Disclosure to the Foundation's auditors](#)

Details of all trustees' potential benefits will need to be disclosed by the CEO to the Foundation's auditors who will form a view as to whether any benefits need to be disclosed in the Foundation's annual report and accounts.