

# The Carbon Community (TCC) Conflicts Policy

## 1. Trustees' Declaration of Interests

### ***Conflicts of Interest***

Trustees have a legal duty under the Companies Act to declare conflicts of interest. Trustees also have a separate duty under the Act to avoid conflicts of interest and duty. These specific Company Act duties are in addition to the similar duties of a charity trustee. Conflicts may arise indirectly because, for example, of the interest of a connected party. 'Conflicts' is widely defined and includes possible as well as actual conflicts of interest or duty. This note describes the basic principles, but if in doubt, a trustee should declare their interest and seek specific advice from the Chair of The Carbon Community trustees.

The conflicts under the Act broadly fall into two categories:

a) Those arising out of transactions between the trustee and the Trust. As a charity, only a very limited number of such transactions are permitted by the Trust's Memorandum and Articles of Association. For such a permitted transaction the Companies Act requires declaration. Some of these transactions may also require the consent of the members of the Trust, members of the Board or the Charity Commission.

Examples include:

- a proposal to enter into a contract with a trustee's spouse
- possible recruitment of a close relative as an employee of the charity
- a trustee renting property or lending money to the charity

b) Those conflicts which do not involve a transaction between the trustee and the Trust.

Here the Act requires approval by the members of The Carbon Community or by a Board resolution. This should be obtained as soon as a situation exists where a conflict could arise. Do not wait until the conflict actually occurs.

Examples include:

- a trustee who was also a director of the charity's subsidiary trading company
- a trustee is an employee, councillor or otherwise involved with a body funding the charity
- a trustee who owns property adjacent to the property of the charity or a property that the charity is considering purchasing
- a trustee who has an advisory relationship with the charity or has an advisory relationship with a competitor charity
- a trustee who learns of some opportunity at a board meeting which the charity does not wish to exploit but which he/she wishes to take advantage of

### ***Connected Persons***

Conflicts may arise indirectly because of the interests of someone connected to the trustee.

c) Under the Companies Act, a connected person includes:

- the trustee's family – this section is drafted fairly widely and includes most relatives, spouse or partner
- a company (corporate body) in which the trustee owns or controls a voting interest exceeding 20%
- a person acting as a trustee of a Trust in which the TCC trustee or connected person is a beneficiary
- a person acting as a partner of the trustee

d) Under the Charities Act, a connected person includes:

- a trustee for the charity
- a person who is the donor of any land to the charity
- a child, parent, grandchild, grandparent, brother or sister of any such trustee or donor
- an officer, agent or employee of the charity
- the spouse or civil partner of any person falling within any of sub-paragraphs above
- a person carrying on business in partnership with any person falling within any of the sub-paragraphs above
- an institution which is controlled by any person falling within any of the subparagraphs above
- a corporate body in which any connected person falling within any of the subparagraphs above has a substantial interest

e) In addition to the Companies and Charity Act requirements, if a trustee takes on an additional role with another organisation which has the potential to conflict with their role as a TCC trustee, leading to divided loyalty between the two organisations, the Board would consider carefully whether that trustee should remain a trustee of the TCC. Of particular concern are:

- organisations that occupy similar space to The Carbon Community, such as national organisations with an environmental focus and which run campaigns or raise funds from similar sources and
- where the trustee sits on the main governance board of the organisation or
- if the trustee is the chairperson of the other organisation

## 2. Register of Interests

The Carbon Community maintains a Register of Interests. To enable this and to comply with the statutory duty, all trustees must fill in a Declaration of Interest form (see page 5). The information should be current and should be updated as it changes.

The register will be kept at The Carbon Community's registered address and will be open to scrutiny by trustees and (senior) staff unless the trustee body believes reasonably that some or all of the information shall remain confidential to trustees.

In addition to providing information for the register at the beginning of a board or trustee meeting, each trustee should declare:

- any interests that he or she has, directly or indirectly, in any items to be discussed at the meeting, even where those interests have already been declared on the Register of Interests; and
- any other potential conflicts of interest, whether direct or indirect, of which he or she has become aware which have not already been declared

Where conflict of interest and duty may arise and the interest relates to a matter under discussion, The Carbon Community must decide whether the interest:

- category (a) - is trivial and does not create a real danger of conflict of interest and duty or bias or the appearance of bias
- category (b) - does not create a real danger of conflict of interest and duty or bias, but might reasonably cause others to think it could influence a decision
- category (c) - creates a real danger of conflict of interest and duty or bias (that is, the interest affects him/her, or a person or business connected to him/her, more than the generality affected by the decision)

Generally, the Board will deal with conflicts as follows:

In the event that the interest falls into:

- category (a), the trustee must not vote
- category (b), it shall be at the discretion of the other trustees (who do not themselves have an interest in the matter) whether the trustee may remain in the meeting, but the trustee must not participate in the discussion or vote on the matter
- category (c), the trustee must leave the meeting and must not participate in the discussion or vote on the matter

The decision as to how the conflict of interest is to be dealt with must be set out in a resolution of the Board. The resolution may require other steps to be taken; for example, requiring information to be kept confidential or other undertakings to be given by the trustee.

Trustees and the Board should endeavour to ensure that a trustee with a conflict of interest is not provided with information in that capacity which enables him or her to obtain any advantage. In particular, the person who is responsible for sending information to the trustees prior to a trustee meeting should check the Register of Interests and take any other reasonable steps to ensure that no information is sent to a trustee who may have a conflict of interest relating to that information.

The Carbon Community does not want to be in a situation where there is someone on the Board who has a persistent or potential conflict of interest which makes the senior staff or trustees reluctant to provide full information to the Board and constrains debate at meetings. Therefore, the Board will not appoint new trustees if they have roles or activities which have the potential for conflict of interest. If an existing trustee makes the decision to take on another role which has the potential for conflict of interest, then the Board and he or she will need to consider whether it is sufficient for the trustee to withdraw and not vote, or whether he/she may need to resign.

Trustees must comply with any provisions in the Trust's memorandum and articles relating to conflicts of interest.

### ***3. Gifts and hospitality***

Trustees are asked to use their judgement with respect to declaring gifts and hospitality from external bodies or Trust suppliers and whether they were declined or accepted. If in any doubt please check with the Chair of the Trustees.

## THE CARBON COMMUNITY DECLARATION OF INTEREST FORM

I [insert name] have set out below my interests in accordance with the Trust's Conflict of Interest Policy:

### Category

Please give details of the interest and whether it applies to yourself or where appropriate, a connected person.

**Current employment** and any previous employment in which I continue to have a financial interest.

**Appointments** (voluntary or otherwise) eg trusteeships, directorships, local authority membership, tribunals etc.

**Membership** of any professional bodies, special interest groups or mutual support organisations.

**Investments** in companies, partnerships and other forms of business, major shareholdings, beneficial interests where these are felt to constitute a potential conflict of interests. (Investments where my holding constitutes not more than a hundredth of the capital of the company may generally be omitted).

Any **contractual relationship** with the Trust.

**Ownership of any property** that could create a conflict of interest.

Any other conflicts that are not covered above where there could be perceived to be conflicts of interests.

Any other people, organisations, companies or institutions with whom I am 'connected' (under charity or company law), who I have not already referred to on this form.

Gifts or hospitality offered by external bodies or TCC supplier and whether this was declined or accepted, e.g. attended dinner sponsored by Trust supplier.

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