

Conflict of Interests (Board)

1. Background

The aim of this policy is to provide guidance for Board members to identify, declare, record and manage actual, potential and perceived conflicts of interest.

The NHF Code of Governance 2020 provides that: “the board has clear policies and procedures for its members to identify, declare, record and manage any actual, potential and perceived conflicts of interest”.

The Charity Commission also considers it good practice for Board members to implement a conflicts of interest policy.

2. Objectives

Abbeyfield the Dales (ATD) is a registered housing provider and a registered charity and its Directors are its Trustees. They therefore have a duty to act in the best interests of ATD. They must not place themselves in a position where they have, or may have, a direct or indirect interest that conflicts with their duties as Trustees and must not profit from their position as Trustees.

These obligations derive from the general fiduciary duties owed by charity Trustees and the Companies Act 2006, which sets out specific requirements in relation to conflicts of interest. Similar obligations apply to Committee members.

Conflicts of interest can inhibit open discussions and may result in Board or Committee members taking irrelevant considerations into account or making decisions that are not in ATD’s best interests. They can also damage the reputation of ATD if it appears that the Board or Committee members are influenced by personal interests or loyalties. All Board or Committee members must therefore be alert to the possibility that they, or their co-Board or Committee members, could be affected by a conflict of interests.

The procedures which accompany this policy will enable Board and Committee members to identify and manage conflicts of interest so that they can ensure that conflicts do not prevent them from making decisions in the best interests of ATD. The policy will also help protect ATD and its Board and Committee members from any appearance of impropriety in cases where conflicts of interest arise.

3. Scope

This policy applies to all Board members, Board co-optees and Committee members regardless of position or length of office (all referenced as ‘Board members’ below). It applies to them when operating inside or outside of ATD, including any Board or Committee meetings, panels, working groups, or other meetings or events which they attend either on behalf of ATD or where their presence and behaviour will reflect upon ATD. It applies to communications, either oral or written, involving Board members.

4. Policy

In this Policy and the accompanying procedures references to:

4.1. Definitions

- a) A conflict of interest may arise where an individual's personal or family interests and/or loyalties conflict with those of the charity. Such conflicts may create problems.
- b) "conflicts" or "conflicts of interest" include actual and/or potential conflicts of interest and/or duty.
- c) Persons who are "connected" with a Board member means:
 - I. A child, stepchild, grandchild, parent, brother or sister of a Board or Committee member.
 - II. The spouse, unmarried partner or civil partner of a Board member or of any person falling within paragraph (i) above.
 - III. Any person who is in a business partnership with a Board member or any person who is in a business partnership with any person falling within paragraph (i) or (ii) above; and
 - IV. Any company, business, trust, or organisation in which a Board member (or any other person connected to them) has an interest as a beneficiary or through ownership, control or influence.

If in doubt about whether a person is connected, a Board member should seek advice from a solicitor or other person qualified to advise on the matter; and
- d) "benefit" includes any payment or material benefit (including property, loans, goods and services), other than reasonable out of pocket expenses.

ATD's governing document sets out some procedures in relation to conflicts of interest. This policy should be read in conjunction with the governing document, and relevant provisions in the governing document take precedence over this policy.

4.2. Identifying Conflicts of Interest

A conflict of interest is any situation in which a Board member's direct or indirect interests could, or could be seen to, prevent them from making a decision only in the best interests of ATD.

Conflicts of interest may arise:

- a. where a Board member (or a person connected to them) stands to obtain a benefit from ATD; or
- b. where a Board member has a duty of loyalty to a third party that conflicts with their duty to ATD.

When considering if they have a conflict of interest, a Board member must be aware of the following principles:

- a. a conflict of interest exists if there is a possibility that the Board member's personal interest could influence their decision-making, even if the Board member's decision-making is not in fact adversely affected by the conflict. A reasonable perception that a conflict of interest exists can be enough for a Board member to be in breach of their duties; and
- b. the interest that gives rise to a conflict may be direct or indirect. A conflict may therefore relate to the interests of someone who is connected to a Board member as well as to their own personal interests.

It is impossible to set out every situation which may result in a conflict, but common situations include:

- a. Selling, loaning or leasing ATD assets to a Board member (or a person connected to them).
- b. ATD acquiring, borrowing or leasing assets from a Board member (or a person connected to them).
- c. The exploitation by a Board member (or a person connected to them) of any property, information or opportunity of which they become aware while acting as a Board member.
- d. Paying a Board member for carrying out:
 - i. Their role as Board member;
 - ii. A separate paid post at ATD (even if they have resigned as a Board member); or
 - iii. A post at a subsidiary of ATD;
- e. Paying a Board member (or a person connected to them) for providing a service and/or goods to ATD.
- f. Employing a person connected to a Board member at ATD or a subsidiary of ATD.
- g. Making a grant to a Board member (or a person connected to them) or determining where the Board member (or a person connected to them) is a beneficiary.
- h. Making decisions in relation to service provision where a Board member (or a person connected to them) is a service user.
- i. A transaction between ATD and a subsidiary where a Board member is a Director (or Board member) of both entities, and the transaction results in ATD receiving a substantial asset from, or transferring a liability to, the other entity.
- j. When a Board member (or a person connected to them) owes a legal obligation or duty towards another organisation or person (for example, an employer or another charity of which they are a Board or Committee member) that conflicts with the Board member's duty to ATD.
- k. When a Board member has a personal sense of loyalty to another organisation or person that conflicts with their loyalty to ATD; and
- l. When a Board member has religious or political views that could interfere with their ability to make decisions in the interest of ATD.

4.3. Maintaining the Register of Board members' interests

The Business Support Manager will be responsible for maintaining the register of Board members' interests, and will:

- a. Record in the register all conflicts, interests, gifts and hospitality declared by Board members;
- b. Minute all declared conflict of interests in all Board and Committee meeting.

All Board or Committee members will be requested to complete a Trustee Declaration of Interests form (Appendix 1) to register all interests regardless of whether they constitute a conflict, all of which will be recorded on the conflict of interests register.

The Chair of the Board of Trustees and the Chief Executive will review all interests presented by Board and Committee members and be responsible for deciding whether interests constitute as conflicts and communicate this with the relevant Board or committee members.

All declared interests will be reviewed annually with ATD board meetings.

The register of Board or Committee members' interests will be available for inspection by any Board member and any member of the public on request.

4.4. Decision Making

Where conflicts are established, these will be declared at the beginning of each Board and committee meeting, where a registered conflict relates an agenda item within the meeting, those Board or Committee members associated with the conflict will be exempt from any potential decision making required during the discussion.

4.5. Declaration of interests by prospective Board members

Before a prospective Board member is appointed, they must be asked to declare any direct or indirect interests they have that might give rise to a conflict of interests.

If the Board members consider it likely that the prospective Board member will be subject to serious or frequent conflicts of interest, the Board members should consider whether it is appropriate to proceed with the appointment.

4.6. Authorised conflicts of interest

The Board member's duty to avoid a conflict of interest does not apply if, and to the extent that, the conflict of interest is authorised by any of the following:

- a. An express provision in ATD's governing document.
- b. A statutory provision, such as the powers in the Charities Act 2011 to:
 - i. Pay a Board member (or a connected person) for providing services to ATD (sections 185 to 188); or
 - ii. Take out and pay premiums for Trustee indemnity insurance (section 189); or
- c. The Charity Commission or the court.

In each case, the Board member must always follow any conditions that apply to the authorisation.

4.7. Advisers and conflicts

Before appointing any advisers to ATD, the Board members must consider whether the adviser has, or may be seen to have, any actual or potential conflict with the interests of ATD.

All advisers to ATD must be appointed by the Board members under terms that include:

- a. an obligation to inform the Board members if any circumstances arise in which they are or may be conflicted; and
- b. an obligation to address any conflicts that arise in the work they do for the Board members.

4.8. Board Member Awareness

All current and newly appointed Board members must maintain their knowledge and understanding on identifying situations that may result in a conflict and ways in which conflicts can be managed in practice following guidance from Charity Commission (Link supplied in Section 10 of this policy).

4.9. Monitoring and enforcing this policy

Any Board member who becomes aware of a breach of this policy must report it to the Chair of the Board of Trustees or Chief Executive as soon as possible.

The Chair of the Board of Trustees or Chief Executive must:

- a. report all breaches of the policy of which they are aware to the Board members at the next Board or relevant Committee meeting; and
- b. ensure that all breaches are noted in the minutes of the Board or relevant Committee meeting.

The Board members have implemented this policy to monitor and manage conflicts of interest. Any failure to comply with the terms of this policy will not, in itself, result in a decision of the Board members being invalidated or in any liability to ATD's beneficiaries.

5. Finance, Value for Money & Social Value

N/A

6. Supported Appendices

APPENDIX 1: Trustee Declaration of Interests Form

7. Linked Policies

Anti-Bribery LG001P)

Gifts, Wills & Legal Matters (LG021P)

Data Protection (LG013P)

Professional Boundaries (LG027P)

8. Legislation/Regulation

Companies Act 2006

Charities Act 2011

Bribery Act 2010

9. Review

Every 3 years, subject to any regulatory or legislative updates.

10. Procedure/Guidance

The Charity Commission's guidance for trustees on conflicts of interest is available on its website at: <https://www.gov.uk/government/publications/conflicts-of-interest-a-guide-for-charity-trustees-cc29>.

National Housing Federation Code of Governance 2020 (see para 1.5)

National Housing Federation Code of Conduct 2012

Abbeyfield The Dales Ltd

Trustee Declaration of Interests



Consent Form

Trustee Name:

Date:

Board member of:

☐ Abbeyfield The Dales Ltd

☐ Abbeyfield Court Ltd

☐ Abbeyfield Lodge (Ilkley) Ltd

Committee member of:

☐ Finance

☐ Business Development

☐ Quality

☐ Remuneration

I, the above-named Trustee of Abbeyfield the Dales Limited set out below my interests in accordance with the organisation's Conflict of Interest Policy.

Please give details of the interest and whether it applies to yourself or, where appropriate, a member of your immediate family, connected persons or some other close personal connection.

Details of interests:

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

Appointments (voluntary or otherwise) e.g. trusteeships, directorships, local authority membership, tribunals etc.

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

Investments and beneficial interests in any company or other form of business with which Abbeyfield the Dales Ltd has a contract, partnership or other relationship in its funding or in the supply of its services.

Gifts or hospitality offered to you by external bodies and whether this was declined or accepted in the last twelve months.

Do you use, or care for a user of the organisation's services?

Any contractual relationship with the charity or its subsidiary.

Any other conflicts that are not covered by the above.

Declaration

To the best of my knowledge, the above information is complete and correct.

I am not an undischarged bankrupt and there is no other reason which under the Charities Act would disqualify me from acting as a trustee.

I undertake to update as necessary the information provided, and to review the accuracy of the information on an annual basis. I give my consent for it to be used for the purposes described in the conflicts of interest policy and for no other purpose.

Signed:

Privacy Statement

The information provided on this form will be processed in accordance with the Data Protection Policy of Abbeyfield the Dales Ltd and with the data protection principles set out in the Data Protection Act 2018. Data will be processed only to ensure that trustees act in the best interests of the charity. The information provided will not be used for any other purpose.