

CITIZENS ADVICE REIGATE AND BANSTEAD CONFLICT OF INTEREST AND TRUSTEES GUIDANCE

1. Introduction

A trustee has a duty to act solely in the interests of Citizens Advice Reigate and Banstead. Sometimes, however, the interests of the trustee or a connected person may conflict with those of Citizens Advice Reigate and Banstead. A trustee might also have a conflict of loyalties; that is, a conflict between the duties he or she owes to Citizens Advice Reigate and Banstead and the duties he or she owes to another body. For example, the trustee might be a local authority nominee who owes a duty to both bodies. In this guidance, these conflicts of loyalty and more personal conflicts of interest are both referred to as conflicts of interest.

This is a separate issue from [conflict of interest and clients](#).

The following guidance outlines some of the key areas where conflict might occur as far as trustees are concerned and suggests ways in which they may be managed.

Trustees should be familiar with the information on conflict of interest in Citizens Advice Reigate and Banstead's governing document.

Trustees should also consider the guidance on [political impartiality and trustees](#).
See also: [Paid staff and volunteers: involvement with the board](#)

2. General principles

2.1 Benefit or disadvantage to the individual

The interests of the individual conflict with those of Citizens Advice Reigate and Banstead where the individual is involved in taking a decision on behalf of Citizens Advice Reigate and Banstead and the outcome of the decision might benefit or disadvantage him or her or any connected person.

2.2 Trustee nominated by local authority

Although benefit and disadvantage are normally measured in pecuniary terms this is not always the case and care must equally be exercised where a non-pecuniary interest exists. It is important to note that the mere potential for a conflict of interest to arise does not mean it has arisen. For example, a trustee may have been nominated by a local authority which is a funder of Citizens Advice Reigate and Banstead's service and may even regard himself or herself as a representative of the local authority. The interests of the authority and Citizens Advice Reigate and Banstead do not generally conflict and will most often coincide. However, there will be times, for example during the negotiation of contracts between the two, when their interests will conflict.

In such situations Citizens Advice Reigate and Banstead is obliged to manage the situation in such a way as to ensure that it can show that a conflict could not and does not occur.

3.0 Pecuniary and non-pecuniary interests

3.1 Pecuniary interests

A pecuniary interest exists where the individual or connected person may benefit from or be disadvantaged financially by the matter under discussion, for example:

- volunteers and travel expenses
- paid staff and salary
- partner accountant and auditor appointment
- partner solicitor and franchise application.

3.2 Non-pecuniary interests

A non-pecuniary interest exists where the individual or connected person has any other interest in the matter under discussion, for example:

- local authority elected member and media campaign following grant reduction
- Law Centre staff member or trustee and franchise application
- trustee of another organisation and application for membership of Citizens Advice Reigate and Banstead.

4.0 Connected persons

Accounting and Reporting by Charities: Statement of Recommended Practice (SORP) 2015 classes the following 'natural persons' as related parties:

- A. Any charity trustee and custodian trustee of the charity
 - B. A person who is the donor of any land to the charity (whether the gift was made on or after the establishment of the charity)
 - C. Any person who is:
 - A child, parent, grandchild, grandparent, brother or sister of any such trustee (A) or donor (B) of land
 - An officer, agent or a member of the key management personnel of the charity
 - The spouse or civil partner of any of the above persons (A, B, C1 and C2)
 - Carrying on business in partnership with any of the above persons (A, B, C1, C2 and C3)
 - A person, or a close member of that person's family, who has control or joint control over the reporting charity
 - A person, or a close member of that person's family, who has significant influence over the reporting charity
- Close member of a person's family refers to:
- That person's children or spouse
 - The children, stepchildren or illegitimate children of that person's spouse or domestic partner
 - Dependents of that person
 - That person's domestic partner who lives with them as husband or wife or in an equivalent same-sex relationship

5.0 Managing conflict of interest

5.1 Policies to manage conflicts of interest

Potential conflicts of interest will arise from time to time. Conflicts of interest arise where an individual's personal or family interest or loyalties conflict with those of the organisation they are involved with. Such conflicts can create problems, such as:

- Constraining free discussion.
- Decisions or actions that are not in the interests of the organisation.
- Risk of giving the impression to the public, employees and users of the accounts that the organisation has acted improperly. The Companies Act 2006 limits or does not allow certain types of related party transactions, so it is important that organisations have policies and procedures in place so they are aware of these limitations. Key procedures would include:
 - Clear role descriptions for trustees/ directors that include legal responsibilities and duties.
 - A robust process for declaring interests which will include maintaining an up to date register of interests.
 - Keeping clear minutes recording board resolutions on how the board have managed any conflicts of interest.
 - Seeking legal advice as necessary to ensure all is in order.

5.2 Record of interests

A [record of trustees' interests](#) should be made available at trustee board meetings to ensure awareness of any conflicts which may arise. If a trustee does not make the meeting aware of any recorded interest, it is the responsibility of the chair to declare it.

5.3 Withdrawal from parts of meetings

If a conflict of interest is to be managed effectively the individual should generally be excluded from that part of any trustees' meeting during which a decision is reached.

It may be appropriate for the trustee to remain during all or part of the discussion, perhaps to explain his or her views on the matter. If appropriate, he or she can be asked to leave before a final discussion and vote. Whether this is appropriate will always depend on the circumstances. For example, if the conflict (or possible conflict) is a personal one he or she must not take part in the vote; but if the matter involves another organisation whose interests might conflict in some minor way with those of Citizens Advice Reigate and Banstead, it may be reasonable for that person to vote.

In Citizens Advice Reigate and Banstead articles of association, there is a requirement that in any kind of conflict situation the trustee in question must declare an interest and may only remain in that part of the meeting if invited to do so by the chair. Even if allowed to remain, he or she must not vote or be counted in the quorum if the matter is one that affects the trustee's personal interests.

It is important that full and frank discussion should not be inhibited. The point at which the individual is asked to leave the meeting will depend on the matter under discussion:

- a partner accountant whose firm has previously been the bureau's auditor may be asked to leave when the agenda item on auditor appointment is reached
- a volunteer representative may be asked to make a case for increased travel costs before being asked to leave and then be asked to return to answer any questions raised.

However care must be taken to ensure that:

- agenda items and observer/attendee invitations do not create conflict
- trustees are not recruited whose interests, or the interests of any connected person, are so wide that they prevent him or her playing an effective part in Citizens Advice Reigate and Banstead governance
- the decision-making process is adequately informed and advised by those with specialised knowledge or expertise.

Where someone has been asked to leave a meeting because a conflict has arisen, the minutes of the meeting need to record:

- the nature and extent of the conflict
- an outline of the discussion to that point
- the actions taken to manage the conflict
- whether the excluded person will benefit from the agreed decision.

If a trustee cannot operate effectively because he or she is so substantially conflicted, the appropriate course is for him or her to resign.

6. Competitors for funding

Citizens Advice Reigate and Banstead trustees and CEOs should carefully consider the potential conflict of interest issues that could arise if they are on the trustee board of another organisation that might be in a position to bid for similar funding opportunities.

In an increasingly competitive environment it may become difficult to avoid conflicts if both organisations were regularly competing for the same pots of funding. Hence, the likelihood of related conflicts of interest should be carefully considered and regularly reviewed. In some circumstances, the ability to govern effectively may become hampered for that trustee and continued involvement with that organisation should be reconsidered.

Trustees must act at all times in the interests of the organisation they are a trustee of. Declaring an interest and removing themselves from discussions and decisions at board

level might be enough to ensure conflicts do not arise. Where a conflict is noted, there should be a record in the minutes of the meeting.

7. Trustees as representatives

Trustees who are appointed or nominated by local authorities or other bodies may regard themselves as representing that body on the board of Citizens Advice Reigate and Banstead. This is a difficult position for a trustee to be in because, when acting as a trustee, he or she must act at all times solely in the interests of Citizens Advice Reigate and Banstead. Putting the interests of another body ahead of those of Citizens Advice Reigate and Banstead, such that Citizens Advice Reigate and Banstead suffers detriment, is a breach of trust. Trustees in that position are recommended to obtain confirmation from the appointing authority that the authority recognises the trustee's overriding duty to act in the interests of Citizens Advice Reigate and Banstead and not those of the authority.

Please note that Part V of the Local Government and Housing Act 1989 does not apply to Citizens Advice Reigate and Banstead trustees who are nominated representatives of the local authority. Although the Act creates specific rules for situations where local authorities can exercise influence or control over companies limited by guarantee these do not cover Citizens Advice organisations. Citizens Advice organisations are specifically excluded from these provisions by Direction of the Secretary of State for the Environment.

8. Keeping records

New trustees should declare any interest they have which might conflict with the interests of Citizens Advice Reigate and Banstead in writing. The interest should be recorded in a register of interests and this can be updated by every trustee at the first trustee board meeting following each AGM.

The register of interests should contain the following:

Trustee	Interest	Does the interest relate to the trustee or a person connected to the trustee?	Is the interest current?
Trustee 1	Employee of xxx charity with similar aims and objectives working in same area	Trustee	No, trustee resigned post in 2002
Trustee 2	Trustee of xyz charity with different aims and funders	Trustee	Current
Trustee 3	1) Joint owner of local factory	Trustee, other joint owner is trustee's brother	Current
	2) Elected Borough Councillor	Trustee	Current

The register of interests should be stored securely with managed access in accordance with the [Data Protection Act](#).

The declaration of interests form is available: [declaration of interests form](#)

9. Reporting transactions

9.1 Charity Commission annual return

Citizens Advice Reigate and Banstead are required to declare in their annual returns to the Charity Commission any benefits that have been paid to trustees or people connected with them.

9.2 Annual financial statements SORP 2015

Accounting and Reporting by Charities: Statement of Recommended Practice (SORP) 2015 is applicable to charities preparing their accounts in accordance with the Financial Reporting Standard FRS 102. SORP 2015 refers to 'Related party' as a term used to combine the requirements of charity law, company law and the accounting standard FRS102 that identifies those persons or entities that are closely connected to the reporting charity or its trustees. Related parties include a charity's trustees and their close family members and those entities which they control or in which they have significant interest.

The annual financial statements must include a note to the accounts for disclosure of any related party transactions. If there are no related party transactions in the period that require disclosure, SORP 2015 requires that this fact must be stated. Transactions with related parties should be **disclosed** in the **annual financial statements** to provide assurance that the charity is operating for public benefit in the interests of the charity and not for private benefit. Transactions involving a trustee or other related party must always be regarded as material, regardless of their size.

For those related party transactions which must be disclosed, the note should provide the following information:

- The names of the parties involved in the transaction.
- A description of the relationship between the parties.
- A description of the transaction and the amounts involved.
- Any amounts due from or to the related parties at the year-end, or provisions for bad or doubtful debts with related parties.
- The terms and conditions of the transaction and details of any guarantees given or received.

Any other elements of the transaction that is necessary for an understanding of the financial statements, such as particulars of relationships that led to the transactions, or other information.

Disclosures can be given in total for similar transactions and type of related party, except where the disclosure of an individual transaction is necessary to understand the impact of the transaction or is required by law.