



CONFLICTS OF INTEREST POLICY

THOMAS'S FOUNDATION [CIO]

Registered Charity No. 1181145

CONFLICTS OF INTEREST POLICY

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1-The need for a policy

The Trustees, as charity Trustees, have a legal obligation to act in the best interests of the charity, in accordance with its governing documents, and not for their own private interest or gain.

The aim of this policy is to protect both the Charity and its Trustees in situations where a conflict of interest or duty arises, or might arise, and to ensure that such situations are dealt with openly in line with article 7 of the Constitution of the Thomas's Foundation. Conflicts of interest and duty are bound to arise within a charity, and the issue is not the integrity of the Trustee concerned but the management of any potential for a Trustee to profit from their position, or for a Trustee to be influenced by conflicting personal interests or loyalties.

2- Definitions

What is a conflict?

As set out above, a "conflict" may be a conflict of interest or of duty, and may apply to the Trustee themselves, or a Family Member or Connected Party in line with Thomas's Foundation Constitution

The conflict may arise in the course of the Trustee's professional life or personal life. Any situation in which the interests or duty of the Trustee or their close family could potentially conflict with the interests of the Charity is a "conflict" which requires management in accordance with this policy.

The Charity Commission 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.*"¹ All aspects of the operation of the Charity may be affected by conflicts of interest, not just decision-making. This Conflicts of Interest Policy therefore governs every aspect of the affairs of the Charity, from consideration of matters by the board of Trustees and its committees, decision-taking or advisory, to liaison with the people and charities that work with or are beneficiaries of the Charity, and the Charity's relationship with Thomas's London Day Schools.

¹ Charity Commission Conflicts of Interest: A guide for charity trustees CC29 (February 2017)

Different types of conflicts of interest may arise in relation to different aspects of the Charity's affairs².

Conflicting personal financial interests arise where there is an opportunity for personal financial or other material gain or benefit, directly or indirectly, to be derived by a Trustee or close family member. An example would be if the Charity purchased goods or services from a company owned by a Trustee, or if the Charity were considering awarding a bursary in respect of a pupil that is the child of a Trustee.

Conflicting loyalties may arise where:

- a Trustee has a professional relationship with a party which is affected by a decision made by the Charity, which may therefore be perceived to affect their judgement. An example of this would be if the Charity were to decide to change one of the partners it works with in Nepal and a potential new partner or a person in a position of authority in respect of that organisation is in business with a Trustee.
- there is an opportunity for direct or indirect financial gain or benefit to be derived by others with whom a Trustee is associated, or where the interests of others associated with a Trustee may be affected by decisions of the Charity. This extends to a Trustee's relationship with his or her employer, colleagues and close family members. An example would be if a business owned by a member of a Trustee's family were to bid to support a high-profile fundraising event run by the Charity.
- through his or her role with the Charity, a Trustee is in a position, or has access to information, that could potentially be of advantage to them in their non-Trustee capacity or of advantage to their employer. An example of this would be if confidential information regarding the operations or financial position of a business that makes in-kind donations to the Charity's community outreach programme could be of advantage to the Trustee's employer or colleagues or other business interests.
- through the connection of a charity trustee to the Thomas's London Day Schools whether as a parent, member of the PTA, employee or member of the executive body
- through conflicts of loyalty: when decisions by charity trustees are influenced by interests directly or indirectly which are not financial

If the conflict of interest involves a conveyance, transfer, lease or other disposition of land, then there is a wider definition of Family Member, which includes other connected parties. "Connected Parties" is defined in the Charities Act 2011, and this definition is reproduced at **Appendix 1**.

Extent of the conflict: connected persons?

As set out above, a "conflict" could apply to the charity trustee or its associated persons

² The reader is reminded that the conflicts of interest and examples given in this Policy apply to any employee, director or consultant of Thomas's London Day Schools who carries out functions for the Charity.

Associated persons include³:

- a child, parent, grandchild, grandparent, brother or sister of the charity trustee
- the spouse or civil partner of the charity trustee
- a person carrying on business in partnership with the charity trustee or with any person in this definition
- an institution that is controlled by the charity trustee or any connected person
- an institution which is controlled by two or more persons falling within the definition of connected persons
- a body corporate in which the charity trustee or any connected person has a substantial interest
- a body corporate in which two or more persons fall within the definition of connected persons

3- Policy statements

The Trustees have a legal duty not to benefit personally from their position as Trustee. To ensure that this duty is not infringed, the Trustees must manage conflicts and potential conflicts in line with the procedure below. *It is the personal responsibility of each Trustee to ensure that they have read and understood this policy, and act in accordance with it as and when a conflict arises.*

The Board of Trustees must:

- a) *Prevent conflicts of interest from affecting decision making by considering the potential effects of a conflict and eliminating them in line with the Thomas's Foundation's Constitution and the Procedure outlined below*

A charity trustee must:

- b) *declare the nature of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the CIO, or in any transaction or arrangement entered into by the CIO which has not previously been declared; and*
- c) *absent himself or herself from the making of any decision by the charity trustees in relation to which it can reasonably be regarded that a conflict of interest is likely to arise between his or her duty to act solely in the interest of the CIO and any personal interest (including but not limited to any financial interest)*
- d) *A charity trustee must not accept a benefit from a third party that is given to him/her because of their position as a Trustee or because of an action that is taken/not taken as a Trustee unless that benefit cannot reasonably be regarded as giving rise to a conflict.*
- e) *The Board must review its Conflict of Interest Forms at least annually*

³ Section 118 of the Charities Act apply for interpreting the terms used in this Policy in relation to Conflicts of Interest and Connected Persons

- f) *The charity trustees must apply the procedure below to resolved declared conflicts*
- g) *The charity trustees must escalate the reserved list of conflicts to the Charity Commission for resolution*
- h) *If the conflict arises in relation to the Chairman of the Board of Trustees, the procedure set up below applies and vice-chairman must take the attributions of the Chairman*
- i) *If a conflicts of interest often arise because a decision involves a potential trustee benefit, in this case:*
 - o *the charity trustee benefit must be properly authorised in accordance with the Foundation's Constitution and the procedure below and*
 - o *the charity trustees must follow any conditions attached to the authority which say how the conflict of interest should be handled*

Any charity trustee absenting himself or herself from any discussions in accordance to this Policy and article 7 of the Thomas's Constitution must not vote or be counted as part of the quorum in any decisions of the charity trustees on the matter

4- Benefits from Third Parties

A Trustee must not accept a benefit from a third party that is given to him/her because of their position as a Trustee or because of an action that is taken/not taken as a Trustee unless that benefit cannot reasonably be regarded as giving rise to a conflict.

A benefit that cannot reasonably be regarded as giving rise to a conflict is one that is small/minor in nature, and usually not linked to the taking of action/not taking action. For example, a bottle of wine given to a Trustee at Christmas.

All benefits offered and accepted/refused must be declared, and noted on the Charity's Register of Benefits, to be kept by the Secretary or the Chair. The Register should be reviewed annually, and updated when the position changes.

Trustees must refuse all benefits which could lead to a conflict of interest. If you are in any doubt as to whether a particular benefit would qualify, you should consult the Secretary or the Chair. The Trustees may produce guidance on the acceptance of benefits from time to time.

Procedure:

5- Declaration Form

The Charity has in place a Declaration of Interests Form (set out in **Appendix 2**), which all new and existing Trustees are required to fill out. The form gives details of the Trustees'

interests and connections which could conflict with the Charity, including connections relating to Family Members. "Family Members" includes a Trustee's spouse, partner, family and close relatives.

There may not be any conflict at the time of making the declaration, but the information should be included as there is a potential future conflict. If in doubt, always err on the side of declaration.

The Declaration of Interests Form should be updated as and when a potential conflict arises (such as the date of appointment to trusteeship or senior position in the example given above), and the forms shall be kept by the Secretary or Chair. The forms should also be reviewed at a meeting once a year.

6- Declaration at a meeting

Although most potential conflicts will be noted on the Declaration of Interests Form, at any meeting at which an agenda item is proposed in which a Trustee or Family Member (or Connected Party) has a potential conflict, that conflict should be declared by the Trustee at the start of the meeting, whether or not invited to do so by the person chairing the meeting. Again, if in doubt, always err on the side of declaration.

7- Authorisation at a meeting

Once any declaration has been made, the other Trustees must consider whether the situation amounts to a conflict or potential conflict of interest with agenda item. If they consider that it may, then the conflict must be managed in line with the procedure below. If they consider that it does not, the Trustees must make a note of this in the minutes, and continue to monitor the situation.

Certain conflicts or benefits will be automatically authorised by the Constitution of the Charity. These include:

- if a transaction or arrangement cannot reasonably be regarded as likely to give rise to a conflict of interests between the Trustee's duty to act solely in the interests of the CIO and any personal interest, including but not limited to any financial interest (CIO Constitution, clause 7(2)).

8- Procedure at a meeting

Where a conflict has been declared or noted and no relevant authorisations have been received, the conflicted Trustee must not take part in the making of any decision in relation to which they have a conflict. The Trustees may decide on a case by case basis whether it is in the best interests of the Charity for the conflicted Trustee to remain for discussions on the relevant issue (for example if they have specific relevant expertise or information) but the conflicted Trustee will not be able to vote on the matter.

In all cases, a note shall be made of the detail of the conflict, the discussions carried out by the Trustees, and the conclusions and actions taken.

9- Authorisation by the Charity Commission (reserve list of conflicts for Charity Commission resolution)

Where there is:

- a financial benefit to the Trustee or Family Member;
- a non-financial but other significant benefit to the Trustee or Family Member;
- a significant conflict but the conflicted Trustee is required to take part in future discussions and votes (for example because a quorum cannot otherwise be reached);
- a majority of the Trustees are subject to the conflict; or
- the proposed transaction relates to the conveyance, transfer, lease or other disposition of land to a Trustee or connected party as defined in the Charities Act 2011⁴,

then an order of the Charity Commission must be sought before the transaction can go ahead.

10- Monitoring and Review

The policy shall be monitored, reviewed and updated by the Trustees once a year. Compliance with this policy shall be monitored by the Chair, and appropriate action taken when necessary.

11- Data Protection

Any personal information provided will be processed in accordance with applicable data protection legislation. Personal data will be processed only to ensure that Trustees act in the best interests of the Charity, and will not be used for any other purpose.

12- Date of last review of policy

Date of last review: 27/09/2021

Approval by the Board of Trustees: 12/oct/2021

⁴ See Appendix 1

APPENDIX 1

118 Connected Persons under section 118 Charities Act 1993 for disposal of land

- (1) In section 117(2) “connected person”, in relation to a charity, means any person who falls within subsection (2)—
 - (a) at the time of the disposition in question, or
 - (b) at the time of any contract for the disposition in question.
- (2) The persons are—
 - (a) a charity trustee or trustee for 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) a child, parent, grandchild, grandparent, brother or sister of any such trustee or donor,
 - (d) an officer, agent or employee of the charity,
 - (e) the spouse or civil partner of any person falling within any of paragraphs (a) to (d),
 - (f) a person carrying on business in partnership with any person falling within any of paragraphs (a) to (e),
 - (g) an institution which is controlled—
 - (i) by any person falling within any of paragraphs (a) to (f), or
 - (ii) by two or more such persons taken together, or
 - (h) a body corporate in which—
 - (i) any connected person falling within any of paragraphs (a) to (g) has a substantial interest, or
 - (ii) two or more such persons, taken together, have a substantial interest.
- (3) Sections 350 to 352 (meaning of child, spouse and civil partner, controlled institution and substantial interest) apply for the purposes of subsection (2).

350 Connected person: child, spouse and civil partner

- (1) In sections 118(2)(c), 188(1)(a), 200(1)(a) and 249(2)(a), “child” includes a stepchild and an illegitimate child.

- (2) For the purposes of sections 118(2)(e), 188(1)(b), 200(1)(b) and 249(2)(b)—
- (a) a person living with another as that person's husband or wife is to be treated as that person's spouse;
 - (b) where two people of the same sex are not civil partners but live together as if they were, each of them is to be treated as the civil partner of the other.

351 Connected person: controlled institution

For the purposes of sections 118(2)(g), 157(1)(a), 188(1)(d), 200(1)(d) and 249(2)(d), a person controls an institution if the person is able to secure that the affairs of the institution are conducted in accordance with the person's wishes.

352 Connected person: substantial interest in body corporate

- (1) For the purposes of sections 118(2)(h), 157(1)(b), 188(1)(e), 200(1)(e) and 249(2)(e), any such connected person as is there mentioned has a substantial interest in a body corporate if the person or institution in question—
- (a) is interested in shares comprised in the equity share capital of that body of a nominal value of more than one-fifth of that share capital, or
 - (b) is entitled to exercise, or control the exercise of, more than one-fifth of the voting power at any general meeting of that body.

APPENDIX 2

Declaration of Interests Form

THOMAS'S FOUNDATION [CIO]

Charity Registration number: 1181145

("the Charity")

DECLARATION OF INTERESTS FORM

I, **[NAME]**, as a trustee of the Charity have been given a copy of the Charity's Conflicts of Interest Policy and have set out below my interests in accordance with that policy.

Category	Please give details of the interest and whether it applies to you or, where appropriate, a member of your immediate family or some other close personal connection
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 memberships, tribunals etc.	

Membership of any professional bodies, special interest groups or mutual support organisations.	
Gifts or hospitality in excess of £50 accepted from potential beneficiaries of the Charity in the last twelve months.	
Any contractual relationship with the Charity.	
Any other conflicts that are not covered by the above.	

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To the best of my knowledge, the above information is complete and correct at the time of making this declaration. 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 these details to be used for the purposes described in the Charity's Conflicts of Interest policy and for no other purpose.

Signed: _____

Print Name: _____

Date: _____