

## **CONFLICTS OF INTEREST POLICY OF THE FIA FOUNDATION, A REGISTERED CHARITY IN ENGLAND AND WALES (NUMBER 1088670)**

### **1. INTRODUCTION**

1.1 This policy applies to the Trustees of the FIA Foundation (Foundation) and sets out guidelines and procedures for identifying, monitoring and managing actual and potential conflicts of interest.

1.2 The Charity Commission considers it good practice for Trustees to implement a conflicts of interest policy. The Commission's guidance for Trustees on conflicts of interest is available on its website at: [Commission Guidance](#)

1.3 In this policy references to:

- "conflicts" or "conflicts of interest" include actual and/or potential conflicts of interest and/or duty;
- persons who are "connected" with a Trustee includes:
  - i) a child, stepchild, grandchild, parent, brother or sister of a Trustee;
  - ii) the spouse, unmarried partner or civil partner of a Trustee or of any person falling within paragraph i) above;
  - iii) any person who is in a business partnership with a Trustee or any person who is in a business partnership with any person falling within paragraphs i) or ii) above; and
  - iv) any company, business, trust or organization in which a Trustee (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 Trustee should seek advice from a solicitor or other person qualified to advise on the matter; and

- "benefit" includes any payment or material benefit (including property, loans, goods and services), other than reasonable out of pocket expenses.

1.4 The Foundation's governing document sets out some procedures in relation to conflicts of interest (at Articles 6 and 49). This policy should be read in conjunction with the governing document, and relevant provisions in the governing document take precedence over this policy.

### **2. THE PURPOSE OF THIS POLICY**

2.1 The Trustees have a duty to act in the best interests of the Foundation. In particular, 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 Trustee and must not profit from their position as Trustee.

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

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

2.4 The procedures in this policy will enable Trustees 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 the Foundation. The policy will also help protect both the Foundation and the Trustees from any appearance of impropriety in cases where conflicts of interest arise.

### **3. IDENTIFYING CONFLICTS OF INTEREST**

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

3.2 Conflicts of interest may arise:

- where a Trustee (or a person connected to them) stands to obtain a benefit from the Foundation; or
- where a Trustee has a duty of loyalty to a third party that conflicts with their duty to the Foundation.

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

- decision-making, even if the Trustee'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 Trustee to be in breach of their duties; and
- the interest that gives rise to a conflict may be direct or indirect and, in particular, a conflict may relate to the interests of someone who is connected to a Trustee as well as to their own personal interests.

3.4 It is not possible to set out every situation which may result in a conflict, but common situations include:

- selling, loaning or leasing Foundation assets to a Trustee (or a person connected to them);
- acquiring, borrowing or leasing assets from a Trustee (or a person connected to them);
- paying a Trustee for carrying out:
  - i) their role as Trustee; or
  - ii) a separate paid post at the Foundation (even if they have resigned as a Trustee);
- paying a Trustee (or a person connected to them) for providing a service and/or goods to the Foundation;
- employing a person connected to a Trustee at the Foundation;
- making a grant to a Trustee (or a person connected to them) or determining the Foundation's grant-making policy where the Trustee (or a person connected to them) is a beneficiary;
- when a Trustee (or a person connected to them) owes a legal obligation or duty towards another organization or person (for example, an employer or another charity of which they are a Trustee) that conflicts with the Trustee's duty to the Foundation;
- when a Trustee has a personal sense of loyalty to another organization or person that conflicts with their loyalty to the Foundation; and
- when a Trustee has religious or political views that could interfere with their ability to make decisions in the interest of the Foundation.

### **4. PROCEDURE FOR DECLARING INTERESTS**

4.1 All Trustees have a personal responsibility to declare any interest that might reasonably be regarded as potentially giving rise to a conflict.

- 4.2 On appointment, all Trustees must complete a declaration of interests form:
- listing any personal interests, business interests or other direct or indirect interests that might potentially give rise to a conflict of interests;
  - listing any interests of persons connected to them that may potentially give rise to a conflict of interest;
  - declaring any gifts or hospitality received or offered to them in their capacity as Trustee;
  - confirming that they are not aware of any conflict, other than those already disclosed, that exists between their role and their personal circumstances or other interests;
  - confirming that they will update the form annually, or sooner, if any changes occur; and
  - confirming that they will declare any conflict that arises in the future.
- 4.3 The information provided by Trustees must be recorded in a register of Trustees' interests. At least once in every 12-month period, all Trustees must review the information relating to them contained in the register of interests and declare that the information is correct or make a further declaration if necessary.
- 4.4 It is for individual Trustees to decide which matters to declare but, if in doubt, they should make a declaration. If a Trustee would like to discuss the issue, they may contact the Chair or Executive Director for confidential guidance.
- 4.5 The information provided by Trustees will be processed in accordance with data protection principles as set out in the Data Protection Act 1998 and the General Data Protection Regulation (GDPR). Data will be processed only for the purposes set out in this policy and not for any other purpose.

## **5. MAINTAINING THE REGISTER OF TRUSTEES' INTERESTS**

- 5.1 The Company Secretary will be responsible for maintaining the register of Trustees' interests, and will:
- record in the register all conflicts, interests, gifts and hospitality declared by Trustees; and
  - circulate amendments or additions to the register (if any) to the Board of Trustees at the start of each Trustee meeting.
- 5.2 The register of Trustees' interests will be available for inspection by any Trustee on request.

## **6. DECLARATION OF INTERESTS BY PROSPECTIVE TRUSTEES**

- 6.1 Before a prospective Trustee is appointed, they must be asked to declare any direct or indirect interests they have that might give rise to a conflict of interests.
- 6.2 If the Trustees consider it likely that the prospective Trustee will be subject to serious or frequent conflicts of interest, the Trustees should consider whether it is appropriate to proceed with the appointment.

## **7. PROCESS FOR DECLARING CONFLICTS**

- 7.1 The first item on the agenda of each Trustee meeting will be a standing item requiring all Trustees attending the meeting to declare any conflicts of interest relating to the matters to be discussed at the meeting.

- 7.2 If a Trustee considers that they have an actual or potential conflict, they must inform the Chair as soon as possible and always before any discussion of the relevant matter. The declaration must specify the nature and extent of any direct or indirect interest that gives rise to the conflict.
- 7.3 If a Trustee is aware that another Trustee has an actual or potential conflict that has not been declared, they must notify the Chair or the other Trustees.
- 7.4 If the Chair is declaring a conflict, they must inform the one of the Vice-Chairs or the other Trustees.
- 7.5 If a Trustee is uncertain whether or not they are conflicted, they must err on the side of openness and declare the interest.
- 7.6 The Company Secretary must note all conflicts declared in the minutes of the meeting in which they were declared or, if not declared in a meeting, in the minutes of the next Trustee meeting.

## **8. PROCEDURE FOR DECLARING INTERESTS IN TRANSACTIONS AND ARRANGEMENTS**

- 8.1 A Trustee who has a direct or indirect interest in any proposed transaction or arrangement must declare the nature and extent of that interest before the transaction or arrangement is entered into.
- 8.2 If a Trustee has a direct or indirect interest in a transaction or arrangement that has already been entered into by the Foundation but has not declared that interest, they must declare the nature and extent of that interest as soon as is reasonably practicable.
- 8.3 If a declaration made under paragraph 8.1 or paragraph 8.2 proves to be or becomes inaccurate or incomplete, the conflicted Trustee must make a further declaration giving correct information about the nature and extent of their interest.
- 8.4 A declaration made under paragraph 8.1, paragraph 8.2 or paragraph 8.3 must be made either at a meeting of the Trustees or by sending written notice to the other Trustees.
- 8.5 A Trustee may give general notice that they or a person connected to them has an interest in a specified company, business or organization and is to be regarded as interested in any transaction or arrangement with that company, business or organization that may be entered into by the Foundation, after the date of the notice. Such notice must be given at a meeting of the Board of Trustees or the relevant Trustee must take reasonable steps to ensure that it is brought up and read at the next meeting of the Board of Trustees after it is given. The notice must state the nature and extent of the interest that the Trustee or a person connected to them has in the company, business or organization.

## **9. PROCEDURE FOR ASSESSING CONFLICTS AT MEETINGS**

- 9.1 At the start of each meeting of the Trustees:
- the Chair must inform the other Trustees and the Company Secretary of any conflict of interest that has been declared by a Trustee that relates to the business to be discussed at the meeting; and

- the Company Secretary will circulate any amendments or additions to the register of Trustees' interests made since the last meeting of the Trustees.

9.2 The way in which conflicts are dealt with will depend on the nature and extent of the conflict. The non-conflicted Trustees must therefore:

- assess the nature and extent of the conflict;
- assess the risk or threat to decision-making by the Trustees;
- decide whether the conflict is serious (for example, the conflict is acute or extensive, will or may be seen to prevent the Trustees from making decisions in the best interests of the Foundation, relates to a significant decision or risks significantly damaging the Foundation's reputation); and
- decide what steps to take to handle the conflict.

When considering the conflict, Trustees must take all relevant factors into account, make decisions only in the best interests of the Foundation and always protect the Foundation's reputation.

9.3 The conflicted Trustee must not take part in any discussion or decision about the conflict and how to handle it and will not be counted in the quorum for that part of the meeting.

9.4 The non-conflicted Trustees must consider whether it is necessary to seek the advice of the charity's legal adviser on whether the conflict is serious and/or on how to manage the conflict declared.

## **10. AUTHORIZED CONFLICTS OF INTEREST**

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

- an express provision in the Foundation's Articles of Association (see Article 6);
- a statutory provision, such as the powers in the Charities Act 2011 to:
  - i) pay a Trustee (or a connected person) for providing services to the charity (sections 185 to 188); or
  - ii) take out and pay premiums for trustee indemnity insurance (section 189) referred to at Article 5(22); or
- the Charity Commission or the court.

10.2 In each case, the Trustee must always follow any conditions that apply to the authorization.

## **11. PROCEDURES FOR MANAGING CONFLICTS**

11.1 If the conflict arises owing to a financial transaction between the Foundation and a Trustee (or a connected person), or because a Trustee (or a connected person) will or may obtain a benefit from the Foundation:

- any potential or proposed benefit must be authorized in advance (see section 10 - Authorized conflicts of interest - above); and
- the conflicted Trustee must:
  - i) withdraw from all discussions and decisions in relation to the matter; and
  - ii) not be counted in the quorum for that part of the meeting.

- 11.2 If the non-conflicted Trustees decide that a conflict is serious, they must consider:
- securing the conflicted Trustee's resignation and/or appointing a new Trustee who is not conflicted;
  - not pursuing the course of action that gives rise to the conflict or proceeding in a different way so that the conflict does not arise;
  - seeking independent, expert advice about how to handle the conflict; and
  - asking the Charity Commission for guidance.
- 11.3 If a conflict is not serious, the non-conflicted Trustees must decide what procedures and level of participation by the conflicted Trustee are appropriate. A number of steps can be taken to deal with the conflict, including:
- requiring the conflicted Trustee to withdraw from the meeting for the relevant item and not to be counted in the quorum for that part of the meeting;
  - allowing the conflicted Trustee to remain in the meeting for the relevant item to take part in the discussion, but requiring them to withdraw from the meeting during decision-making and to have no right to vote on the matter; or
  - appointing a new, non-conflicted Trustee.
- 11.4 If the non-conflicted Trustees decide that the conflict is low risk (in that it will not prevent the conflicted Trustee from making decisions in the best interests of the Foundation), they may agree that the conflicted Trustee may continue to participate in discussions and the decision-making process.
- 11.5 The Chair must inform the conflicted Trustee of the non-conflicted Trustees' decision about how to manage the conflict.
- 11.6 The minutes of the relevant meeting must include a record of the nature and extent of the conflict, an outline of the discussion and the actions taken to manage the conflict.
- 11.7 Where a Trustee or a connected person receives a payment or benefit from the Foundation, this must be reported in the annual accounts in accordance with the current Statement of Recommended Practice for accounting by charities (Charities SORP).

## **12. MONITORING, ENFORCING AND REVIEWING THIS POLICY**

- 12.1 Any Trustee who becomes aware of a breach of this policy must report it to the Chair or the Company Secretary as soon as possible.
- 12.2 The Chair or the Company Secretary must:
- report all breaches of the policy of which they are aware to the Trustees at the next Board of Trustees meeting; and
  - ensure that all breaches are noted in the minutes of the relevant Board of Trustees meeting.
- 12.3 The Trustees have implemented this policy in order 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 Trustees being invalidated or in any liability to the Foundation's beneficiaries.
- 12.4 This policy must be reviewed annually.

**Adopted by the Board of Trustees on 13 October 2021 (Version 1)**