

DISABILITY POSITIVE CONFLICT OF INTEREST POLICY

Revision History

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1 POLICY STATEMENT

This policy sets out **Disability Positive** (*hereinafter referred to as the “Company”*) approach to managing conflicts of interest. The Company is committed to the fundamental values that underpin all the activity of the Company as identified in the Nolan principles and has devised this policy, a Code of Conduct Policy and Anti-Bribery and Corruption Policies based around these principles. These policies set a minimum standard that must be followed.

The Company strive to avoid any conflict of interest between the interests of the Company on the one hand, and individual personal, professional, and business interests on the other. This includes avoiding actual conflicts of interest as well as the perception of conflicts of interest.

The Company strives to be inclusive and ensure that its work represents the needs and wishes of disabled people and their families in Cheshire but recognises that people who become staff members of the Company may have other interests of relevance to Company contracts and service delivery which may lead to a conflict of interest.

Most conflicts of interest can be successfully managed if they are known and out in the open.

Trustees and staff interests outside of their role with the Company, providing they are transparent, do not usually prevent involvement in the Company, but it is important that checks and balances are put in place.

The Company consider a Conflict of Interest to mean a situation or circumstance in which a staff member has competing interests. Any relationship, (whether personal or professional), influence or activity that may impair or appear to impair the ability of staff to:

- a) make fair and objective decisions when performing their role; or
- b) act in the best interests of the Company; or
- c) act impartially and in the best interest of a customer.

2 PURPOSE

The purpose of this policy is to ensure a professional and consistent approach to managing Conflicts of Interest; to protect the integrity of the Company's decision-making process, to enable stakeholders to have confidence in the Company's integrity; and to protect the integrity and reputation of all staff.

3 SCOPE

This policy applies to all trustees, and staff within the Company (*meaning permanent, fixed term, and temporary employees, any third-party representatives or sub-contractors, agency workers, volunteers, interns and agents engaged with the Company in the UK or overseas*).

Adherence to this policy is mandatory and non-compliance could lead to a breach of the policy/ disciplinary action.

4 CONFLICTS OF INTEREST

Trustees

In practice this means that trustees cannot receive any benefit from the Company in return for the service they provide to the Company, unless they have express legal authority to do so.

The Charity Commission identifies that any of the following may amount to a potential conflict of interest:

- payment to a trustee for services provided to the Charity
- the award of a contract to another organisation in which a trustee has an interest and from which a trustee will receive a financial benefit
- the employment of a trustee in a separate post within the Charity, even when the trustee has resigned in order to take up the employment
- decision to be taken on staff pay and/or conditions at a committee meeting, where a staff member is related to a trustee.
- indirect financial gain, such as employment by the Charity of a spouse or partner of a trustee, where their finances are interdependent
- non-financial gain, such as when a user of the Charity's services is also a trustee
- conflict of loyalties, such as where a trustee is appointed by the local authority or by one of the Charity's funders, or where a friend of a trustee is employed by the Charity
- a trustee who is also a user may be faced with a decision in a committee meeting regarding whether fees for users should be increased
- a trustee who is also on the committee of another organisation that is competing for the same funding.

Staff

Staff members need to be mindful of potential conflicts of interest. These can occur if individuals use their position with the Company to:

- further their own financial interests (e.g. by taking on private work with a customer)
- benefit a third party with whom they are associated (e.g. recommend a tradesperson to whom they are related)
- discriminate against a customer due to their political or religious views or allegiances
- refer customers to agencies with whom they have a connection (e.g. to a particular agency with whom you have an involvement)
- unfairly benefit a customer to whom they are related (e.g. by applying a reduced charge for a service)

Or

- are employed or engaged by an organisation in competition with the Company
- are involved with groups whose values are in conflict with those of the Company.

This list is not intended to be exclusive but is indicative of the kind of issues that can arise.

Direct Service Delivery

In addition, there may be circumstances in which staff members involved in the Company's Advocacy, Arrangement of Care and Support, Brokerage or other service(s) may encounter specific case related conflicts of interest:

- Where both parties to a dispute approach the Company for information or advice.
- Where the staff member has a financial, business or family interest in the issue being discussed.
- Where a staff member is a party to the dispute that the customer is seeking advice about.
- Where the customer asks for information or advice about choosing a product or service that the Company also provides.
- Where a customer presents information the staff members knows to be false.
- Where a legal issue arises where potential action could be taken against the Company.

Further detail in relation to the case related conflicts of interest is set out in **Appendix 1**.

5 DECLARATION OF INTERESTS

The Company expect all trustees and staff to declare all relevant personal, financial or other interests, roles, and any gifts or hospitality received in connection with their role in the Company. **A declaration of interest's form is detailed in Appendix 2** for this purpose, listing the types of interest you should declare.

To be effective, the declaration of interests needs to be updated at least annually and also any changes occur.

If you are not sure what to declare, or whether/when your declaration needs to be updated, please always err on the side of caution. Interests will be recorded on the Company's register of interests, which will be maintained by the Chief Executive Officer/Company Secretary.

6 DATA PROTECTION

The information provided will be processed in accordance with data protection principles as set out in the Data Protection Act 2018. Data will be processed only to ensure all trustees and staff act in the best interests of the Company. The information provided will not be used for any other purpose.

7 WHAT TO DO IF YOU FACE A CONFLICT OF INTEREST

Trustees

All trustees should complete a Register of Interests of trustees on an annual basis and be alert to any other possible conflicts of interest and advise the company secretary as soon as they arise.

- Any trustee who has a financial interest in a matter under discussion, should declare the nature of their interest and withdraw from the room, unless they have a dispensation to speak.
- If a trustee has any other interest which does not create a real danger of bias, but which might reasonably cause others to think it could influence their decision, they should declare the nature of the interest, but may remain in the room, participate in the discussion, and vote if they wish.
- If in doubt about the application of these rules, the Chairperson should be consulted.
- When trustees become aware of a new, actual or potential conflict of interest, they should give notice of it to the company secretary to enable her/him to update the conflict register.

If you are a user of the Company's services, or the carer of someone who uses the Company's services, you should not be involved in decisions that directly affect the service that you, or the person you care for, receive(s).

You should declare your interest at the earliest opportunity and withdraw from any subsequent discussion. The same applies if you face a conflict for any other reason.

You may, however, participate in discussions from which you may indirectly benefit, for example where the benefits are universal to all users, or where your benefit is minimal.

If you fail to declare an interest that is known to the Company Secretary or Chairperson, the Company Secretary or Chairperson will declare that interest.

For all other potential conflicts of interest, the advice of the Charity Commission will be sought and the advice recorded in the minutes. All steps taken to follow the advice will be recorded.

Staff Members

All staff should complete a Register of Interests form on an annual basis and be alert to any other possible conflicts of interest.

Staff members who have an interest that potentially could be in conflict with their position with the Company should bring it to the attention of their line manager who will pass it onto the Senior Management team for consideration. Senior Managers with a potential conflict of interest should consult with the Chief Executive Officer and in similar circumstances the Chief Executive Officer should consult with the Chairperson.

If you are a user of the Company's services, or the carer of someone who uses the Company's services, you should not be involved in decisions that directly affect the service that you, or the person you care for, receive(s).

You should declare your interest at the earliest opportunity and withdraw from any subsequent discussion. The same applies if you face a conflict for any other reason. You may, however, participate in discussions from which you may indirectly benefit, for example where the benefits are universal to all users, or where your benefit is minimal.

If you fail to declare an interest that is known to the line manager, the line manager or Senior Manager will declare that interest.

8 DECISIONS TAKEN WHERE A TRUSTEE OR STAFF MEMBER HAS AN INTEREST

In the event of the board of trustees having to decide upon a question in which a trustee or staff member has an interest, all decisions will be made by vote, with a simple majority required. A quorum must be present for the discussion and decision; interested parties will not be counted when deciding whether the meeting is quorate.

Interested board members may not vote on matters affecting their own interests. They may participate in the discussion but not the decision-making process.

All decisions at a board meeting under a conflict of interest will be reported in the minutes of the meeting. The report will record:

- The nature and extent of the conflict;
- An outline of the discussion;
- The actions taken to manage the conflict.

An independent arbitration service will be used where conflicts cannot be resolved through the usual procedures through an EGM or AGM.

9 MANAGING CONTRACTS

If you have a conflict of interest, you must not be involved in managing or monitoring a contract in which you have an interest. Monitoring arrangements for such contracts will include provisions for an independent challenge of bills and invoices, and termination of the contract if the relationship is unsatisfactory.

APPENDIX 1

SPECIFIC CASE RELATED CONFLICTS OF INTEREST

There may be circumstances in which staff members specifically involved in the Company's Advocacy, Arrangement of Care and Support, or other service(s) (*hereinafter referred to as the **Advisor***) may encounter Conflicts of Interest:

- Where both parties to a dispute approach the Company for advocacy, information or advice.
- Where the Advisor has a financial, business or family interest in the issue being discussed.
- Where the Advisor is a party to the dispute that the customer is seeking advice about.
- Where the customer asks for information or advice about choosing a product or service that the Company also provides.
- Where a customer presents information the Advisor knows to be false.
- Where a legal issue arises where potential action could be taken against the Company.

The Company cannot offer advice to both parties as it cannot act in the best interests of both customers and its impartiality could be questioned.

It may offer preliminary information to any caller on first contact with the service but should not knowingly offer advice to the second party in any dispute once the first party has consulted it.

Similarly, it cannot advise a party in a dispute with someone who is a staff member of the Company.

Procedure to avoid conflict of interest – outset of case

For most customers seeking to use a direct service provision there will be no conflict of interest in relation to the other party because the Company will not be advising that party – this is because the other party in most cases is likely to be a Public Body.

However, there will be some cases where a conflict of interest is possible – here are some examples:

- A customer has a housing problem and the landlord is a member of the Board of Trustees.
- The daughter of a disabled person contacts the Company wanting help to challenge a statutory assessment of her mother's ability to continue living in the community – she thinks her mother should be admitted to residential care. But her mother is happy to remain living independently or with family. The service needs to decide who it is working on behalf of – the daughter or the disabled person. If it is the mother, the service needs to act on her wishes, rather than the daughter's.

If it is clear from the initial information that the Company would not find itself advising two parties in dispute and it would not involve a member of staff or trustee then no further check needs to be made. A note must be made on the case file to show that a conflict check was not applicable.

In all other cases the name check procedure outlined below must be followed.

Name check – stage 1

The Advisor must find out who the other parties may be in relation to the customer's enquiry and whether there could be any conflict between them.

In all cases where a conflict of interest check is required a note must be made on the case file to show that a conflict check has been carried out. The customer must be asked whether she/he knows whether the other party has taken advice on the matter. If so, the Advisor should establish whether the customer has received any letters from the other party. If these letters show that the other party is being advised by another advice agency or firm of solicitors, no further check need be carried out.

Unless it is clear that no conflict exists by this stage, the Advisor must continue through stage 2.

Name check – stage 2

Whenever the Company takes any action on behalf of a customer, a case file is opened which includes the customer's name and address and the date of contact and this is updated every time the customer makes contact. All case files should be checked to establish whether the Company is already advising the other party in relation to this matter. If so, please refer to below.

Dealing with conflicts of interest

The Advisor should discuss the matter with their line manager. If the second party is a customer seeking advice, it should be explained to the second party that the Company is acting for another party with regard to the issue and therefore cannot act for them because of a conflict of interest. No details of the advice given to the first party must be disclosed. They should be referred to another agency for appropriate help in accordance with the Company's **Signposting and Referral Policy**. All papers relevant to the party being

referred must be forwarded, with the customer's consent. All decisions must be fully recorded on the relevant case file.

Conflict during a case

When the Company discovers that, unknowingly, it has been advising both parties or when conflict arises between parties after the case has begun, it should ideally cease to act in the matter. The Team Manager should discuss the situation with the Senior Manager and if necessary refer to the Chief Executive Officer.

Enquiries about other company services

The Company offers a number of services to disabled people in the local area, including some charged for services. Staff involved the Company's Advocacy, Arrangement of Care and Support and Brokerage services must be independent and impartial and must be seen to be so. Therefore, a clear procedure is needed for occasions when customers ask about other Company services.

If a customer asks an Advisor about a Company charged-for product/service such as Payroll or Supported Banking, which the Company offers, the following procedure should be followed:

- Tell the customer that the Company offers the product or service, but that our Arrangement of Care/Brokerage service is impartial and can help the customer make an informed choice, by providing details of a range of providers to enable the customer to make an informed choice.
- Inform the customer that they may be able to get similar products and services from other sources.
- If the customer chooses to find out more about the Company product or service, refer the customer to a colleague who operates that service.

False information from a customer

Advisors must remain impartial and assume what the customer says, to be true. However, if it becomes clear that false information is being presented, the customer must be informed of the consequences of their action. If the customer still wishes to pursue the matter on the basis of providing false information, they should be informed that the Company cannot act on their behalf.

Potential legal action against the Company

A manager may pick up that a customer may have a potential cause for complaint whilst checking/reviewing the work of their team (e.g. as part of an independent file review). In such a situation, the manager should first of all inform the relevant Senior Manager.

They should identify whether the complaint has potential for legal action that could impact on the Professional Indemnity policy - i.e. a legal issue such as breach of confidentiality, libel/slander or a potential financial loss.

If this is the case, immediate contact must be made with the Chief Executive Officer.

If not, the following action should be taken:

- Contact the customer.
- Explain what has happened.
- Set out any incorrect/ inadequate advice or action and how this can be corrected.
- Explain that the customer could request the matter be dealt with as a complaint and that they may wish to seek independent advice about this from another agency.

The Professional Indemnity Insurance Policy, which covers advice given, states *that 'no settlement, admission of liability, payment or promise of payment will be made to a third party without Insurers prior written consent'*. For further information or clarification contact the Chief Executive Officer.

APPENDIX 2

Declaration of Interests Form



As a trustee / staff member* [*delete as appropriate] of the Company, I have set out below my interests in accordance with the Company's Conflict of Interest Policy.

Category	Please give details of the interest and whether it applies to you 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) e.g.: trusteeships, directorships, local authority, membership, tribunals etc	
Membership of any professional bodies, special interest groups or mutual support organisations	
Investment in companies, partnerships and other forms of business major shareholdings, beneficial interest where these are felt to constitute a potential conflict of interests.	
Any contractual relationship with the Company	
Ownership of any property that could create a conflict of interest	
Gifts or hospitality offered by external bodies and whether this was declined or accepted in the last twelve months	
Do you use, or care for a user of one or more of the Company's service(s)?	
Any other people, organizations, companies or institutions with whom you are connected whom you have not already referred to on this form	
Any other conflicts that are not covered above where there could be perceived to be conflicts of interest	



To the best of my knowledge, the above information is complete & correct. I undertake to update 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.

Name: _____

Signed: _____

Position in the Company: _____

Date : _____