



**Montessori
St Nicholas**
Child led, future focused

CONFLICTS OF INTEREST POLICY

ST. NICHOLAS' TRAINING CENTRE FOR THE MONTESSORI METHOD OF EDUCATION LIMITED

All existing and new Trustees and senior staff members shall receive a copy of this policy and shall be deemed to have accepted it.

1. INTRODUCTION

- 1.1 The aim of this document is to give guidance on the legal requirements and set out the policy of St. Nicholas' Training Centre for the Montessori Method of Education Limited ("**the Charity**") in relation to conflicts of interest.
- 1.2 Each Trustee owes a duty of loyalty to the Charity and must always act in its best interests. Failure to do so may constitute a breach of trust and may result in the Trustee being personally liable.
- 1.3 Trustees and senior staff must act in accordance with the Charity's articles of association and must properly manage situations where there may be a conflict of interest.

2. WHAT IS A CONFLICT OF INTEREST?

- 2.1 A conflict of interest is any direct or indirect interest of a Trustee or senior staff member (whether personal, by virtue of a duty of loyalty to another organisation or otherwise) that conflicts with the interests of the Charity. A conflict of interest includes a conflict of loyalty, that is a conflict between any duty a Trustee or senior staff member has to the Charity and any duty he or she has to another organisation.
- 2.2 Conflicts of interest are not just about personal benefits or benefits received by people or organisations connected with a Trustee or senior staff member. Certainly, the conferring of such benefits may give rise to conflicts which need to be authorised and managed. However, a conflict (or appearance or possibility of a conflict) can arise simply because a Trustee or senior staff member has interests in or loyalty or other duties owed to other organisations whose interests might conflict with those of the Charity.
- 2.3 Where a conflict of interest arises for a Trustee or senior staff member as a result of circumstances affecting a connected person, it is the Trustee or senior staff member that must comply with this policy – not the connected person (unless the connected person is also a Trustee or senior staff member).
- 2.4 The following are typical examples where the Trustee or senior staff member concerned is likely to have a conflict of interest:

- 2.4.1 The charity wants new office premises. A Trustee or senior staff member has some suitable premises to rent, and he or she would expect to be paid for renting them to the charity.
 - 2.4.2 The charity wishes to sell some land. A Trustee or senior staff member owns adjoining land, the value of which could be affected by the charity's activities.
 - 2.4.3 The charity is advertising a job and one of the Trustees or a member of his/her family or a family member of a senior staff member is considering applying.
 - 2.4.4 The charity is taking a decision on staff pay and/or conditions and a Trustee is related to a member of staff.
 - 2.4.5 A Trustee or senior staff member has shares in a business that may be awarded a contract to do work or provide services for the charity, or is a director, partner or employee or related to someone who is.
- 2.5 An example of a situation where a Trustee or senior staff member may have a conflict of interest includes where a charity is considering awarding a contract to a third party and a Trustee or senior staff member has received corporate hospitality from that third party in the past. The level of benefit received by the Trustee or senior staff member will be key to deciding if there is a conflict of interest.

3. OVERVIEW OF THE CONFLICTS PROCEDURE

- 3.1 A Trustee must declare any interest in a matter to be decided by the Trustees. A senior staff member must declare any interest in a matter to be decided at Trustee level or below.
- 3.2 Any conflict between the interests of the Charity and the interests of a Trustee or senior staff member; and any conflict between the duty of loyalty or senior staff member owed to the Charity and the duty of loyalty he/she may owe to any other organisation must be:
 - 3.2.1 identified;
 - 3.2.2 managed in accordance with the articles of association; and
 - 3.2.3 minuted.
- 3.3 The law relating to conflicts of interest for companies is complex. It is summarised in Appendix A for reference. However, identification and management of conflicts of interest is not complex and Trustees who comply with this policy will not breach their legal duties.

4. DECLARING INTERESTS

- 4.1 All Trustees and senior staff must declare their interests, and any gifts or hospitality received in connection with their role in the Charity. There is no legal definition of what is an "interest". It is just a question of common sense whether circumstances are such that a Trustee or senior staff member has an interest.
- 4.2 A Declaration of Interests Form is attached at Appendix B. This should be completed:

- 4.2.1 by all Trustees and senior staff;
 - 4.2.2 annually by all existing Trustees and senior staff; and
 - 4.2.3 updated when any existing Trustee or senior staff becomes aware of a new interest.
- 4.3 Trustees and senior staff should err on the side of caution when completing their Declaration of Interests form, listing all interests which may give rise to a conflict of interests.
- 4.4 A Register of Trustees' Interests ("**Register**") will be maintained by the Secretary or if none, the Chair, and be accessible to the Trustees and senior staff. A model Register is attached at Appendix C.

5. IDENTIFYING CONFLICTS OF INTEREST

- 5.1 Each agenda for Trustee meetings (or for a Trustee decision to be made outside a meeting) will include an item for declaration of interests and identification of any conflicts or potential conflicts of interest.
- 5.2 Prior to, or at the beginning of any Trustee decision making process (or committee meeting), Trustees must declare any interest in relation to matters on the agenda and whether or not they think this may give rise to a conflict of interest. Trustees not attending the meeting or taking part in the decision making process should declare any interest in advance to the Chair. Notwithstanding Article 21.2 which states there is no requirement to disclose interests of which the other Trustees ought reasonably to be aware, the Charity's policy is that at each meeting the Trustees shall declare any change(s) to existing notified conflict(s) and declare any new or potential conflicts.
- 5.3 The declaration can be by oral notification to the Chair or by using the form attached as Appendix B. Any new interests declared in this way will be entered in the Register.
- 5.4 If a Trustee's interest or duty cannot reasonably be regarded as likely to give rise to a conflict of interest or a conflict of duties with or in respect of the Charity, he or she is entitled to participate in the decision-making process, to be counted in the quorum and to vote in relation to the matter. This is a situation where there is a coincidence of interest, as opposed to a conflict.
- 5.5 Any uncertainty about whether a Trustee's interest or duty does in fact give rise to or can reasonably be regarded as giving rise to a conflict shall be determined (without the interested Trustee being present) by a majority decision of the other Trustees taking part in the decision-making process. The interested Trustee cannot vote or be counted in the quorum in relation to the decision about whether their interest does or does not give rise to a conflict.

6. WHAT TO DO IF THERE IS A CONFLICT OF INTEREST

- 6.1 The Articles permit Trustees with a conflict of interest to remain, vote and be counted in the quorum in certain situations. The starting point is that the Trustee can participate in the decision making process, be counted in the quorum and vote unless:

- 6.1.1 a majority of the other Trustees participating in the decision-making process decide to the contrary; or
- 6.1.2 the decision could result in the Trustee or any person who is connected with him or her receiving a benefit. However, there are four benefits where the Trustee can still participate, be counted in the quorum and vote and these are:
 - (a) any benefit received in his, her or its capacity as a beneficiary of the Charity and which is available generally to the beneficiaries of the Charity;
 - (b) the payment of premiums in respect of trustee indemnity insurance;
 - (c) payment under the trustee indemnity set out in the Articles; and
 - (d) reimbursement of expenses in accordance with the Articles.
- 6.2 But note even in the situations described in (a) to (d) in 6.1.2 above, it is still open to the other Trustees to decide that the Trustee should not vote or be counted in the quorum.
- 6.3 If a majority of the other Trustees decide a Trustee should not participate in the decision making process, or a Trustee will receive a benefit other than one of the four outlined above then, the Trustee with a conflict of interest must:
 - 6.3.1 take part in the decision-making process only to such extent as in the view of the other trustees is necessary to inform the debate;
 - 6.3.2 not be counted in the quorum for that part of the meeting; and
 - 6.3.3 withdraw during the vote and have no vote on the matter.
- 6.4 The steps in this policy are summarised in the flowchart attached at Appendix D.
- 6.5 Trustees with a conflict of interest or duties to the Charity and who have complied with their obligations will not be in breach of their duties to the Charity by withholding confidential information where disclosure would cause the Trustee to breach any other duty of confidence. Similarly, the Trustee will not be accountable to the Charity for any benefit expressly permitted under the Articles which he or she or any person connected with him or her derives from any matter, office, employment or position.
- 7. ADDITIONAL CONSIDERATIONS WHERE INTERESTS ARISE FROM POTENTIAL BENEFITS TO A TRUSTEE**
- 7.1 The Trustees and certain persons regarded as “connected” with them cannot receive any benefits from the Charity except to the extent permitted by the articles of association of the Charity, the Charity Commission or the Court.
- 7.2 The benefits permitted under the Charity’s articles of association are:
 - 7.2.1 benefits to a Trustee (or person who is connected to a Trustee) in their capacity as a beneficiary;
 - 7.2.2 the payment to Trustees of reasonable out of pocket expenses incurred on behalf of the charity (although these are not, strictly speaking, a benefit);

- 7.2.3 payment to Trustees or a person connected to a Trustee of interest at a reasonable rate on money lent to the charity;
 - 7.2.4 payment to Trustees or a person connected to a Trustee of a reasonable rent or hiring fee for premises let or hired to the charity;
 - 7.2.5 reasonable and proper remuneration to any Trustee or person connected to a Trustee for any goods or services supplied to the charity (and including, for a connected person only, services performed under a contract of employment with the charity), provided that no more than half the trustees shall benefit in this way in any financial year;
 - 7.2.6 benefits under a trustee indemnity insurance policy; and
 - 7.2.7 payments to Trustees under the indemnity contained in the Articles.
- 7.3 Appendix E includes a definition of who is regarded as “connected” to a Trustee.
- 7.4 If a proposed benefit to a Trustee is not permitted under the articles of association, legal advice should be obtained before proceeding.

8. WHAT TO DO IF THERE IS A SENIOR STAFF CONFLICT OF INTEREST

- 8.1 If a senior staff member has an interest in a matter being considered at Trustee level or below, he or she shall declare the interest in writing to the Chair. The declaration can be by oral notification or by using the form attached at Appendix B.
- 8.2 If a senior staff member has declared or is found to have an interest in a matter being considered at Trustee level or below, the staff member must excuse himself or herself from consideration of the relevant matter and all related discussions, unless he or she is asked to provide information regarding the matter.
- 8.3 The staff member may not approve the matter in which he or she has an interest nor be present when a decision is taken with respect to the matter unless such participation has been authorised in his or her absence.

9. RECORD KEEPING

All discussions and decisions about a conflict of interest must be recorded and reported in the minutes of the meeting. The report should record:

- 9.1 any relevant interests of the Trustees and senior staff;
- 9.2 any conflicts of interest, including any decisions made as to whether a Trustee or senior staff member did or did not have a conflict of interest;
- 9.3 the actions taken to manage the conflict in accordance with the Charity’s articles of association;
- 9.4 the names of persons present for discussion; and
- 9.5 any other relevant information.

10. POLICY REVIEW

This policy shall be reviewed as and when the Trustees determine.

APPENDIX A
CONFLICTS OF INTEREST AND THE COMPANIES ACT 2006

1. Under the Companies Act 2006, the Trustees have the following duties in respect of interests and conflicts of interest:

- 1.1 to avoid situations in which they have, or can have, a direct or indirect interest that conflicts, or might conflict, with the interests of the charity (section 175);
- 1.2 to declare an interest in proposed transactions or arrangements (section 177). There is also a separate requirement to disclose interests in an existing transaction or arrangement (section 182); and
- 1.3 not to accept benefits from third parties (section 176). This duty is not infringed if the acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

2. The Companies Act also provides that the duty to avoid conflicts of interest will not be infringed if:

- 2.1 the situation cannot reasonably be regarded as likely to give rise to a conflict of interest; or
- 2.2 provisions in the Articles for dealing with conflicts of interest have been complied with; or
- 2.3 the other directors have authorised the situation. For charitable companies, the directors only have power to authorise a conflict if the Articles include such a power.

3. A director also has a duty (s176) not to accept a benefit from a third party conferred by reason of being a director or doing (or not doing) something as a director.

This duty is not infringed if the acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

4. Further Note, in addition to the above dealing with disclosure of interests and management of conflicts of interest, there are further requirements under the Companies Act in relation to certain transactions

4.1 If a director's interest or conflict of interest arises in relation to any of the following there are further requirements under the Companies Act that must be complied with before the transaction can proceed:

- 4.1.1 Long term service contract – see s188 to s189;
- 4.1.2 Substantial property transactions – see s190 to s196;
- 4.1.3 Loans to directors – s197 to s214; and
- 4.1.4 Payments for loss of office – s215 to s222.

4.2 Broadly speaking each of the above, in addition to any charity law requirements, requires the consent of the company's members although there are some exceptions.

APPENDIX B
ST. NICHOLAS' TRAINING CENTRE FOR THE MONTESSORI METHOD OF EDUCATION
LIMITED
TRUSTEE AND SENIOR STAFF MEMBER
DECLARATION OF INTERESTS FORM

I, _____,
as Trustee/senior staff member of _____ St.
Nicholas' Training Centre for the Montessori Method of Education Limited have set out
below my interests in accordance with the organisation's conflicts of interest policy.

Category	<i>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.</i>
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 in unlisted companies, partnerships and other forms of business, major shareholdings (charities may set a figure here, e.g. more than 1% or 5% of issued capital) and beneficial interests.	
Gifts of hospitality offered to you by external bodies and whether this was declined or accepted in the last twelve months.	
Any contractual relationship with the charity or its subsidiary.	
Any other significant interests not covered by the above which could give rise to a conflict of interest.	
Do you use, or care for a user of the Charity's services?	

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

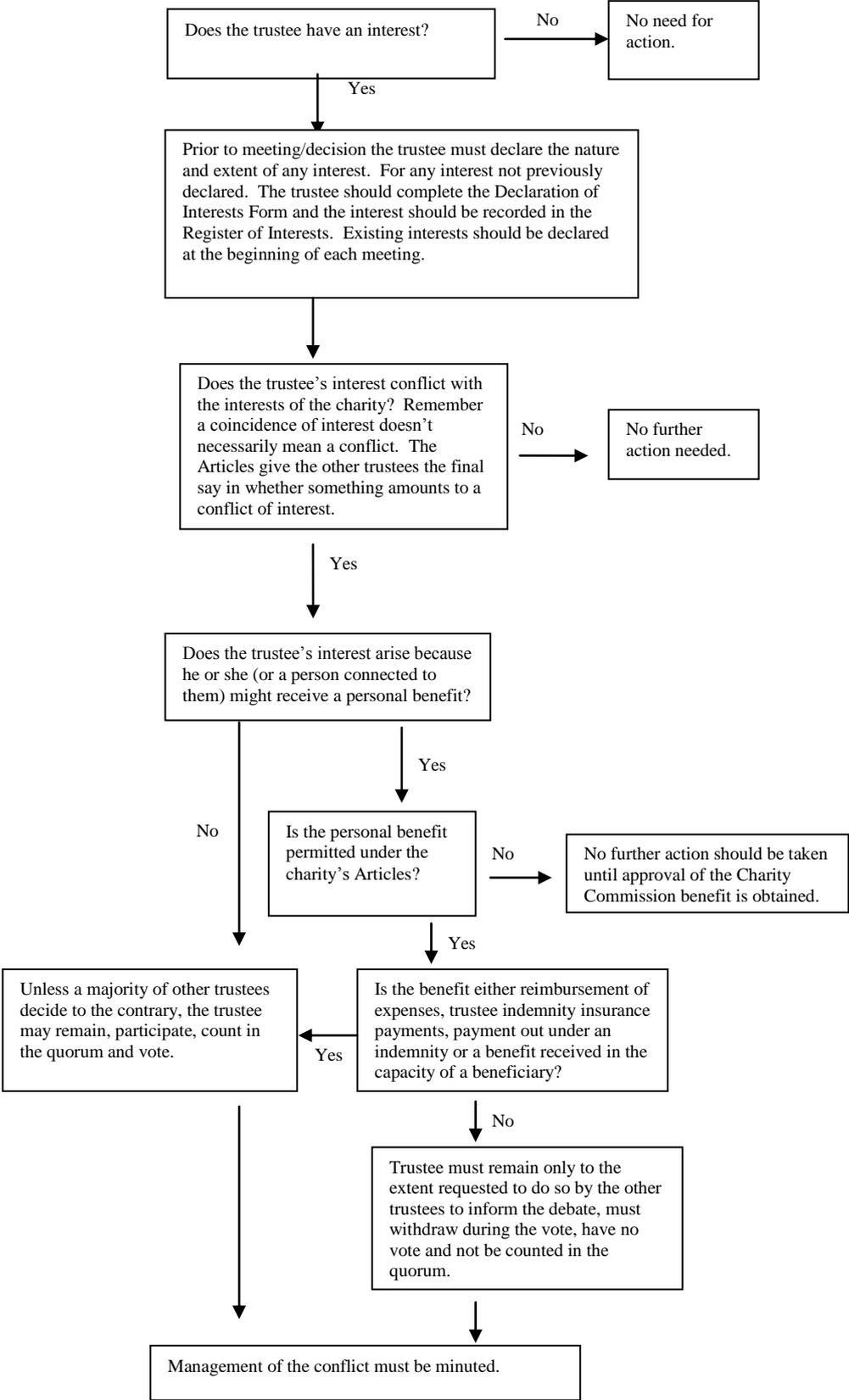
Signed: _____

Position: _____

Date: _____

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**APPENDIX D
MANAGEMENT OF TRUSTEE CONFLICTS OF INTEREST FLOW CHART**



Note this flowchart is specifically tailored to reflect the provisions in Charity's articles of association relating to conflicts of interest and is not appropriate for general use by other

organisations.

APPENDIX E
DEFINITION OF “CONNECTED”

“Connected” means any person falling within one of the following categories:

- (a) any spouse, civil partner, parent, child, brother, sister, grandparent or grandchild of a Trustee or senior staff member; or
- (b) the spouse or civil partner of any person in (a); or
- (c) any other person in a relationship with a Trustee which may reasonably be regarded as equivalent to such a relationship as is mentioned at (a) or (b); or
- (d) any company, partnership or firm of which a Trustee or senior staff member is a paid director, member, partner or employee, or shareholder holding more than 1% of the capital.

Adopted by the Trustees 21/08/15