

Conflict of interest Policy

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Date revised	
Next revision	

1. Purpose and scope

The purpose of this policy is to assist trustees of the Environmental Rights Centre for Scotland (ERCS) to effectively identify, record and manage any conflicts of interest in order to protect the integrity of ERCS and to ensure that all trustees act in the best interest of the organisation.

ERCS Board of trustees aims to ensure that all trustees are aware of their obligations to disclose any conflicts of interest that they may have and to comply with this policy to ensure they effectively manage those conflicts of interest as representatives of ERCS.

This policy applies to the trustees of ERCS and protects the reputation of the organisation.

This policy refers to [The Charities and Trustee Investment \(Scotland\) Act 2005 \(s. 66-67\)](#), [Guidance and Good Practice for Charity Trustees \(2016 v10\)](#) and [ERCS Constitution \(clauses 90-92 & 108-109\)](#).

‘Meeting’ means a meeting in person, virtual or hybrid meeting and follow up email correspondence.

2. Definition of conflicts of interest

A conflict of interest is any situation where there is a potential for a trustee’s personal or business interests (or the interests for someone they are connected with) to be different from the interests of the charity.

These situations present the risk that a trustee may find it difficult to make an impartial decision. However, with proper handling the Board can overcome these difficulties to ensure decisions are made in the best interests of ERCS.

There are two main types of conflict of interest:

1. **Appointment conflict:** This is a conflict of interest which can arise between a trustee and the organisation which appointed them/they are employed or contracted by. For example, a



trustee appointed/ employed or contracted by another organisation competing for the same funding/contracts or a decision is required which affects both ERCS and their organisation.

2. **Personal conflict:** When a trustee might not be able to do what is best for ERCS because it conflicts with their own personal or business interest. For example, when ERCS is considering procurement from a business and a trustee is also a director of that business.

Further examples of a conflict of interest include:

- A trustee could get direct financial benefit from a decision the ERCS Board makes.
- A trustee who has a financial interest in a business that may do work or provide services for ERCS.
- A trustee is also an employee of an organisation ERCS charity is doing business with.
- Being a trustee of two or more charities that are competing with each other for the same grants or funding.
- Being a trustee of a charity that gives out grants and ERCS is applying for one of these grants.
- A trustee applying for a job at ERCS.
- An employee or potential employee of ERCS is connected to a trustee.
- A trustee who is also a service user where a decision is being made about increasing of fees.

3. Policy

This policy has been developed because conflicts of interest commonly arise within charities. This is especially the case for ERCS given Scotland's small and interconnected environmental and rights community and the specialist expertise and skill set required from ERCS trustees and associates. Such conflicts do not need to present a problem to the charity if they are openly and effectively managed. The ERCS Board has a collective responsibility to manage conflicts of interest and to act clearly in the charity's best interest.

Responsibility of ERCS Board

ERCS trustees should ensure that are aware of their legal obligations under the [Charities and Trustee Investment \(Scotland\) Act 2005](#).

- [Section 66\(1\)](#) sets out the general duties of a trustee and how they must identify and manage any potential appointment or personal conflict of interest. This is also set out in ERCS's [Constitution](#) (s.90-91).
- [Section 67](#) sets out when a trustee might benefit from any remuneration for services. This is also permitted in ERCS's [Constitution](#) (s.92 & 108-109) provided the trustee has declared their personal conflict of interest and not voted on the question of whether or not the organisation should enter into the arrangement.



ERCS will manage conflicts of interest by requiring trustees to:

- Avoid conflicts of interest where possible.
- Identify any conflicts of interest.
- Carefully manage any conflicts of interest.
- Record actions taken.
- Follow this policy and respond to any breaches.

Identification and disclosure of conflicts of interest

- All trustees will complete a Declaration of Personal Interests form when they are appointed and annually thereafter. Individual declarations must also be updated if any new personal interests arise. The details will be held in ERCS's Register of Interests and is available to all ERCS members on request.
- The register of interests will be maintained by the Chief Officer and there will be a record of all information related to a conflict of interest - including the nature and extent of the conflict of interest and any steps taken to address it.
- All trustees have the obligation to identify and disclose any conflict of interest at the start of the appropriate board meeting and any ongoing discussions.

Actions required for management of conflicts of interest

- Once the conflict of interest has been appropriately disclosed, the trustee must withdraw from the discussion and not take part in the decision or vote.
- The approval of any action requires the agreement of at least a majority of the ERCS Board excluding any conflicted trustee).
- All details regarding the conflict of interest, including the action arising, will be recorded in the minutes of the meeting and details recorded in the Register of Interests.

In exceptional circumstances, such as where a conflict is very significant or likely to prevent a charity trustee from regularly participating in discussions, The Board may need to consider whether it is appropriate for the person with the relevant conflict to resign.

4. Compliance with this policy

If a person suspects that a trustee has failed to disclose a conflict of interest, they should discuss this with the person in question, notify the Chair or Vice-chair and/or Chief Officer who is responsible for maintaining the register of interests.

If the ERCS Board has a reason to believe that a person subject to this policy has failed to comply with it, it will investigate the circumstances.

If it is found that this person has failed to disclose a conflict of interest, the ERCS Board may take action against the person. This may include seeking the person's resignation from the charity.



ERCS Trustee Declaration of Personal Interests

Each Trustee of the Charity is required to notify any personal interests which may give rise to potential or real conflicts of interest, either or at any time in the future as they arise or become evident. This Declaration will be retained by the Charity as part of its Register of Interests and this will be open for inspection by the Board of Trustees at any time, and by members of the Charity on written application. This Declaration should be reviewed and up-dated annually and must also be updated if any new personal interests arise.

Please insert full details of any personal interests you have under each of the following categories. Please note that categories 2 and 3 apply also to your close relatives (such as spouses, children, parents, siblings, etc.) and to your business associates (such as fellow company directors, partners, etc.). If there is insufficient space under any Category below, please continue on the reverse of this form.

- 1. All paid employment and self-employment (including all directorships and consultancies).**

- 2. All land within Scotland (whether owned, leased or over which an option to purchase is held by you, your close relatives or your business associates, either alone or in conjunction with others) which exceeds 20 acres.**

- 3. All companies or other bodies operating in Scotland in which you or your close relatives or business associates hold a beneficial interest greater than £25,000 or 5% of the issued share capital (whichever is the lesser amount).**



4. **Any memberships of organisations or personal interests (other than financial) where loyalties and/or close associations could materially influence the way in which you take decisions or carry out the functions of the Charity.**

5. **Gifts of hospitality offered to you in your capacity as a trustee by external bodies in the last twelve months whether accepted or declined.**

6. **If there is any reason why you consider this Declaration should be regarded as confidential, please provide full details.**

By your signature of this declaration you agree that the information on this form is correct and may be retained by ERCS and you consent to such retention in terms of the Data Protection Act 1998.

Your name in full: _____

Your Signature: _____

Today's Date: _____