

## DIRECTOR CONFLICTS OF INTEREST POLICY

### 1. Introduction

1.1 This policy applies to the directors of Lutterworth Area Community Projects Limited (**LACPL**) and sets out guidelines and procedures for identifying, monitoring and managing actual and potential conflicts of interest.

1.2 LACPL is a non-profit company limited by guarantee established to administer and manage The Lutterworth Area Community Fund on behalf of GLP, the developer and owner of Magna Park, Lutterworth.

1.3 In this policy references to:

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

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

1.4 LACPL's governing document sets out some procedures in relation to conflicts of interest. 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

The directors of LACPL have a duty to act in the best interests of LACPL. 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 director and must not profit from their position as director.

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

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

2.2 The procedures in this policy will enable directors to identify and manage conflicts of interest so that they can ensure that conflicts do not prevent them from making decisions in the best interest of LACPL. The policy will also help protect both LACPL and the directors 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 director's direct or indirect interests could, or could be seen to, prevent them from making a decision only in the best interests of LACPL.

3.2 Conflicts of interest may arise:

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

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

- (a) a conflict of interest exists if there is a possibility that the director's personal interest could influence their decision-making, even if the director'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 director to be in breach of their duties; and
- (b) 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 director as well as to their own personal interests.

3.4 It is impossible to set out every situation which may result in a conflict, but common situations include:

- (a) selling, loaning or leasing LACPL assets to a director (or a person connected to them);
- (b) acquiring, borrowing or leasing assets from a director (or a person connected to them);
- (c) paying a director (or a person connected to them) for providing services and/or goods to LACPL;
- (d) employing a person connected to a director at LACPL;

- (e) recommending that a grant be made to a director (or a person connected to them) from The Lutterworth Area Community Fund or determining LACPL's/ The Lutterworth Area Community Fund's grant-making policy where the director (or a person connected to them) is a beneficiary;
- (f) when a director (or a person connected to them) owes a legal obligation or duty towards another organisation or person (for example, an employer or another charity of which they are a director) that conflicts with the director's duty to LACPL;
- (g) when a director has a personal sense of loyalty to another organisation or person that conflicts with their loyalty to LACPL; and
- (h) when a director has religious or political views that could interfere with their ability to make decisions in the interest of LACPL.

#### **4. Procedure for declaring interests**

- 4.1 All directors 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 directors must complete a declaration of interests form:
- (a) listing any personal interests, business interests or other direct or indirect interests that might potentially give rise to a conflict of interests.;
  - (b) listing any interests of persons connected to them that may potentially give rise to a conflict of interest;
  - (c) declaring any gifts or hospitality received or offered to them in their capacity as director;
  - (d) 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;
  - (e) confirming that they will update the form annually, or sooner if any changes occur; and
  - (f) confirming that they will declare any conflict that arises in the future.
- 4.3 The information provided by directors must be recorded in a register of directors' interests. At least once in every 12-month period, all directors 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 directors to decide which matters to declare but, if in doubt, they should make a declaration. If a director would like to discuss the issue, they may contact the chair for confidential guidance.
- 4.5 The information provided by directors will be processed in accordance with data protection principles as set out in the Data Protection Act 1998. Data will be processed only for the purposes set out in this policy and not for any other purpose.

## **5. Maintaining the register of directors' interests**

- 5.1 The chair will be responsible for maintaining the register of directors' interests, and will:
- (a) record in the register all conflicts, interests, gifts and hospitality declared by directors; and
  - (b) circulate amendments or additions to the register (if any) to the director board at the start of each director meeting.
- 5.2 The register of directors' interests will be available for inspection by any director and any member of the public on request.

## **6. Declaration of interests by prospective directors**

- 6.1 Before a prospective director 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 directors consider it likely that the prospective director will be subject to serious or frequent conflicts of interest, the directors 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 director meeting will be a standing item requiring all directors attending the meeting to declare any conflicts of interest relating to the matters to be discussed at the meeting.
- 7.2 If a director 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 director is aware that another director has an actual or potential conflict that has not been declared, they must notify the other directors.
- 7.4 If the chair is declaring a conflict, they must inform the other directors.
- 7.5 If a director is uncertain whether or not they are conflicted, they must err on the side of openness and declare the interest.
- 7.6 All conflicts declared must be noted in the minutes of the meeting in which they were declared or, if not declared in a meeting, in the minutes of the next director meeting.

## **8. Procedure for declaring interests in transactions and arrangements**

- 8.1 A director 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 director has a direct or indirect interest in a transaction or arrangement that has already been entered into by LACPL 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 director 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 directors or by sending written notice to the other directors.
- 8.5 A director may give general notice that they or a person connected to them has an interest in a specified company, business or organisation and is to be regarded as interested in any transaction or arrangement with that company, business or organisation that may be entered into by LACPL, after the date of the notice. Such notice must be given at a meeting of the directors or the relevant director must take reasonable steps to ensure that it is brought up and read at the next meeting of the directors after it is given. The notice must state the nature and extent of the interest that the director or a person connected to them has in the company, business or organisation.

## **9. Procedure for assessing conflicts at meetings**

- 9.1 At the start of each meeting of the directors:
- (a) the chair must inform the other directors of any conflict of interest that has been declared by a director that relates to the business to be discussed at the meeting; and
  - (b) the chair will circulate any amendments or additions to the register of directors' interests made since the last meeting of the directors.
- 9.2 The way in which conflicts are dealt with will depend on the nature and extent of the conflict. The non-conflicted directors must therefore:
- (a) assess the nature and extent of the conflict;
  - (b) assess the risk or threat to decision-making by the directors;
  - (c) decide whether the conflict is serious (for example, the conflict is acute or extensive, will or may be seen to prevent the directors from making decisions in the best interests of LACPL, relates to a significant decision or risks significantly damaging LACPL's reputation); and
  - (d) decide what steps to take to handle the conflict.

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

- 9.3 The conflicted director 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 directors must consider whether it is necessary to seek the advice of LACPL's legal adviser on whether the conflict is serious and/or on how to manage the conflict declared.

## **10. Authorised conflicts of interest**

10.1 The director's duty to avoid a conflict of interest does not apply if, and to the extent that, the conflict of interest is authorised by an express provision in LACPL's governing document, in which case, the director must always follow any conditions that apply to the authorisation.

10.2 LACPL's governing document authorises a director, subject to the provisions of the Companies Act 2006 and to the relevant director having declared to the directors the nature and extent of any interest:

- (a) to be a party to or otherwise be interested in, any transaction or arrangement with LACPL or in which LACPL has an interest;
- (b) to be a director or other officer or an employee of, or a party to any transaction or arrangement with any organisation in which LACPL is a party or has an interest; and
- (c) not to be accountable to LACPL for any remuneration or other benefits derived from (a) or (b) above and no transaction or arrangement is liable to be avoided on the ground of any such remuneration, benefit or interest.

## **11. Procedures for managing conflicts**

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

- (a) any potential or proposed benefit must be authorised in advance (see section 10 (Authorised conflicts of interest) above); and
- (b) the conflicted director 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 directors decide that a conflict is serious, they must consider:

- (a) securing the conflicted director's resignation and/or appointing a new director who is not conflicted;
- (b) 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; and
- (c) seeking independent, expert advice about how to handle the conflict.

11.3 If a conflict is not serious, the non-conflicted directors must decide what procedures and level of participation by the conflicted director are appropriate. A number of steps can be taken to deal with the conflict, including:

- (a) requiring the conflicted director to withdraw from the meeting for the relevant item and not to be counted in the quorum for that part of the meeting;
  - (b) allowing the conflicted director 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
  - (c) appointing a new, non-conflicted director.
- 11.4 If the non-conflicted directors decide that the conflict is low risk (in that it will not prevent the conflicted director from making decisions in the best interests of LACPL), they may agree that the conflicted director may continue to participate in discussions and the decision-making process.
- 11.5 The chair must inform the conflicted director of the non-conflicted directors' 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.

## **12. Advisers and conflicts**

- 12.1 Before appointing any advisers to LACPL, the directors must consider whether the adviser has, or may be seen to have, any actual or potential conflict with the interests of LACPL.
- 12.2 All advisers to LACPL must be appointed by the directors under terms that include:
- (a) an obligation to inform the directors if any circumstances arise in which they are or may be conflicted; and
  - (b) an obligation to address any conflicts that arise in the work they do for the directors.

## **13. Training**

All newly appointed directors will receive training on this policy and on identifying situations that may result in a conflict and ways in which conflicts can be managed in practice.

## **14. Monitoring, enforcing and reviewing this policy**

- 14.1 Any director who becomes aware of a breach of this policy must report it to the chair as soon as possible.
- 14.2 The chair must:
- (a) report all breaches of the policy of which they are aware to the directors at the next director meeting; and
  - (b) ensure that all breaches are noted in the minutes of the relevant director meeting.

- 14.3 The directors 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 directors being invalidated.
- 14.4 This policy must be reviewed annually, or sooner if required, by the Chair.

**Date Adopted: 02.11.2020**