

# FREE CHURCH OF ENGLAND CENTRAL TRUST

## CONFLICTS OF INTEREST POLICY

Adopted at a meeting of the Executive Council on 4<sup>th</sup> October 2022

### 1. Introduction

1.1 This policy applies to the members of the Executive Council of The Free Church of England Central Trust ("FCECT") 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 charity trustees to implement a conflicts of interest policy. The Commission's guidance for charity trustees on conflicts of interest is available on its website at: <https://www.gov.uk/government/publications/conflicts-of-interest-a-guide-for-charity-trustees-cc29>

1.3 In this policy references to:

- (a) "benefit" includes any payment or material benefit (including property, loans, goods services), other than reasonable out of pocket expenses;
- (b) "Chair" means the chair of the Executive Council from time to time;
- (c) "conflicts" or "conflicts of interest" include actual and/or potential conflicts of interest and/or duty;
- (d) persons who are "connected" with a charity trustee means:
  - (i) a child, stepchild, grandchild, parent, brother or sister of a charity trustee;
  - (ii) the spouse, unmarried partner or civil partner of a charity trustee or of any person falling within paragraph (i) above;
  - (iii) any person who is in a business partnership with a charity trustee 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 charity trustee (or any other person connected to them) has an interest as an owner or through ownership, control or influence.

If in doubt about whether a person is connected, a charity trustee should seek advice from a solicitor or other person qualified to advise on the matter; and

- (e) "Council Member" means a member of the Executive Council of the FCECT;
- (f) "FCE" means the Free Church of England otherwise known as the Reformed Episcopal Church;

- (g) “Executive Council” has the same meaning as defined in the Memorandum and Articles of Association of the FCECT; and
- (h) “Secretary” means the person appointed to be the company secretary of the FCECT.

1.4 The FCECT’s Memorandum and Articles of Association (“Governing Documents”) do not set out specific procedures in relation to conflicts of interest, however, this policy should be read in conjunction with the Governing Documents. Relevant provisions in the Governing Document take precedence over this policy.

## **2. The purpose of this policy**

2.1 The Executive Council of the FCECT are its charity trustees. They therefore have a duty to act in the best interests of the FCECT. 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 charity trustee and must not profit from their position as charity trustee. These obligations derive from the general fiduciary duties owed by charity trustees and the Companies Act 2006, which sets out specific requirements in relation to conflicts of interest.

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

2.3 The procedures in this policy will enable the Executive Council 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 the FCECT. The policy will also help protect both the FCECT and the Executive Council 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 Council Member’s direct or indirect interests could, or could be seen to, prevent them from making a decision only in the best interests of the FCECT.

3.2 Conflicts of interest may arise:

- (a) where a Council Member (or a person connected to them) stands to obtain a benefit from the FCECT;
- (b) where a Council Member has personal interests which may conflict with the interests of the FCECT; or
- (c) where a Council Member has a duty of loyalty to a third party that conflicts with their duty to the charity.

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

- (a) a conflict of interest exists if there is a possibility that the Council Member’s personal interest could influence their decision-making, even if the Council Member’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 Council Member to be in breach of their duties; and

- (b) the interest that gives rise to a conflict may be direct or indirect. A conflict may therefore relate to the interests of someone who is connected to a Council Member as well as to their own personal interests.

#### 3.4 Situations which may result in a conflict for the Executive Council include:

- (a) selling, loaning or leasing FCECT assets to a Council Member (or a person connected to them);
- (b) the FCECT acquiring, borrowing or leasing assets from a Council Member (or a person connected to them);
- (c) the exploitation by a Council Member (or a person connected to them) of any property, information or opportunity of which they become aware while acting as a Council Member;
- (d) paying a Council Member for carrying out:
  - (i) their role as Council Member; or
  - (ii) a separate paid post at the FCECT (even if they have resigned as a Council Member);
- (e) paying a Council Member (or a person connected to them) for providing a service and/or goods to the FCECT;
- (f) employing a person connected to a Council Member at the FCECT;
- (g) making a grant to a Council Member (or a person or FCE congregation connected to them) or determining the FCECT's grant-making policy where the Council Member (or a person connected to them) is a beneficiary;
- (h) making decisions in relation to a FCE congregation where a Council Member (or a person connected to them) is a member, church warden, officer or minister;
- (i) a transaction between the FCECT and another charity where a Council Member is a charity trustee of both entities, and the transaction results in the Charity receiving a substantial asset from, or transferring a liability to, the other entity or vice versa;
- (j) when a Council Member (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 charity trustee) that conflicts with the Council Member's duty to the FCECT; and
- (k) when a charity trustee has a personal sense of loyalty to another organisation or person that conflicts with their loyalty to the FCECT.

## 4. Procedure for declaring interests

4.1 All Council Members 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 Council Members 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) listing any interests of charitable organisations connected to them (including those within the FCE) that may potentially give rise to a conflict of interest;
- (d) declaring any gifts or hospitality received or offered to them in their capacity as a Council Member;
- (e) 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;
- (f) confirming that they will update the form annually, or sooner if any changes occur; and
- (g) confirming that they will declare any conflict that arises in the future.

4.3 The information provided by Council Members must be recorded in a register of interests. At least once in every 12-month period, all Council Members 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 Council Members to decide which matters to declare but, if in doubt, they should make a declaration. If a Council Member would like to discuss the issue, they may contact the FCECT Secretary or the Chair for confidential guidance.

4.5 The information provided by Council Members will be processed in accordance with the principles for processing personal data set out in UK data protection legislation. Data will be processed only for the purposes set out in this policy and not for any other purpose.

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

5.1 The FCECT Secretary will be responsible for maintaining the register of interests, and will:

- (a) record in the register all conflicts, interests, gifts and hospitality declared by Council Members; and
- (b) circulate amendments or additions to the register (if any) to the Executive Council at the start of each Executive Council meeting.

5.2 The register of interests will be available for inspection by any Council Member on request.

## **6. Declaration of interests by prospective Council Members**

6.1 Before a prospective Council Member 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 Executive Council consider it likely that the prospective Council Member will be subject to serious or frequent conflicts of interest, the Executive Council and Council Member 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 Executive Council meeting will be a standing item requiring all Council Members attending the meeting to declare any conflicts of interest relating to the matters to be discussed at the meeting.
- 7.2 If a Council Member 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 Council Member is aware that another Council Member has an actual or potential conflict that has not been declared, they must notify the Chair or the other Council Members.
- 7.4 If the Chair is declaring a conflict, they must inform the Secretary the other Council Members.
- 7.5 If a Council Member is uncertain whether or not they are conflicted, they must err on the side of openness and declare the interest.
- 7.6 The 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 Executive Council meeting.

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

- 8.1 A Council Member who has a direct or indirect interest in any proposed transaction or arrangement with the FCECT must declare the nature and extent of that interest before the transaction or arrangement is entered into by the FCECT.
- 8.2 If a Council Member has a direct or indirect interest in a transaction or arrangement that has already been entered into by the FCECT 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 Council Member 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 Executive Council or by sending written notice to the other Council Members.
- 8.5 A Council Member 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 the FCECT, after the date of the notice. Such notice must be given at a meeting of the Executive Council or the relevant Council Member must take reasonable steps to ensure that it is brought up and read at the next meeting of the Executive Council after it is given. The notice must state the nature and extent of the interest that the Council Member 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 Executive Council:

- (a) the Chair must inform the other Council Members and the Secretary of any conflict of interest that has been declared by a Council Member that relates to the business to be discussed at the meeting; and
- (b) the Secretary will circulate any amendments or additions to the register of interests made since the last meeting of the Executive Council.

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

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

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

9.3 The conflicted Council Member 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 Council Members must consider whether it is necessary to seek the advice of the FCECT'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 Council Member's duty to avoid a conflict of interest does not apply if, and to the extent that, the conflict of interest is authorised by any of the following:

- (a) an express provision in the FCECT's Governing Documents;
- (b) a statutory provision; or
- (c) the Charity Commission or the court.

10.2 In each case, the Council Member must always follow any conditions that apply to the authorisation and the Executive Committee must follow the procedures below for managing conflicts.

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

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

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

- (a) securing the conflicted Council Member's resignation and/or appointing a new Council Member 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;
- (c) seeking independent, expert advice about how to handle the conflict; and
- (d) asking the Charity Commission for guidance.

11.3 If a conflict is not serious, the non-conflicted Council Members must decide what procedures and level of participation by the conflicted Council Member are appropriate. Steps that can be taken to deal with the conflict include:

- (a) requiring the conflicted Council Member 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 Council Member 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 Council Member.

11.4 If the non-conflicted Council Members decide that the conflict is very low risk (in that it will not prevent the conflicted Council Member or the non-conflicted Council Members from making decisions in the best interests of the FCECT), they may agree that the conflicted Council Member may continue to participate in discussions and the decision-making process.

11.5 The Chair must inform the conflicted Council Member of the non-conflicted Council Members' 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 Council Member or a connected person receives a payment or benefit from the FCECT, as well as the requirement that it be authorised in advance (see section 10 (Authorised conflicts of interest) above) this must be reported in the annual accounts in accordance with the current Statement of Recommended Practice for accounting and reporting by charities (Charities SORP).

## **12. Advisers and conflicts**

12.1 Before appointing any advisers to the FCECT, the Executive Council must consider whether the adviser has, or may be seen to have, any actual or potential conflict with the interests of the FCECT or the FCE.

12.2 All advisers to the FCECT must be appointed by the Executive Council under terms that include:

- (a) an obligation to inform the Executive Council 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 Executive Council.

### **13. Training**

All newly appointed Council Members must 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. In addition, the Executive Council must be familiar with the principles contained in the Charity Commission's guidance on conflicts (see paragraph 1.2).

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

- 14.1 Any Council Member who becomes aware of a breach of this policy must report it to the Secretary or Chair as soon as possible.
- 14.2 The Secretary or Chair must:
  - (a) report all breaches of the policy of which they are aware to the Council Members at the next Executive Council meeting; and
  - (b) ensure that all breaches are noted in the minutes of the relevant Executive Council meeting.
- 14.3 The Executive Council have implemented this policy 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 Executive Council being invalidated or in any liability to the FCECT's beneficiaries.
- 14.4 This policy shall be reviewed annually, or sooner if required, by the Executive Council.