

Funding Decisions Conflicts of Interest Policy

Sponsor: Corporate Director, Business Services

Owner: Company Secretary

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Distribution: For Internal Use

Definitions

BBOT	Barnardo's Board of Trustees
ENT	Employer Nominated Trustee (BBOT Trustee appointed to the SBOT by the BBOT)
ENT (BBOT)	An ENT who, in accordance with this policy, withdraws from the SBOT in respect of all matters relating to the Funding Decisions and confirms in writing that he/she has not received any SBOT Strategic Advice. Provided he/she can do so, he/she will be entitled to participate in BBOT meetings and discussions relating to the Funding Decisions, count in the quorum and vote on all applicable decisions.
ENT (SBOT)	An ENT who, in accordance with this policy, withdraws from the BBOT in respect of all meetings, discussions and other matters relating to the Funding Decisions and confirms in writing that he/she has not received any BBOT Strategic Advice. Provided he/she can do so, he/she may continue as trustees of the SBOT in respect of all matters relating to the Funding Decisions.
Funding Decisions	<p>Decisions in relation to:</p> <ul style="list-style-type: none"> • Agreeing the assumptions underlying the triennial valuation as at 31 March 2021 • The subsequent schedule of contributions and recovery plan • A potential opportunity to move from RPI-based increases to an alternative measure such as CPI-based increases for future uprating of pensions
MNT	Member Nominated Trustee of the Scheme
SBOT	Barnardo Staff Pension Scheme Board of Trustees
Scheme	The Barnardo Staff Pension Scheme
Strategic Advice	Information or advice, beyond the information contained in the draft actuarial valuation, which relates in any way to the process of agreeing the Funding Decisions – i.e. the strategies, tactics and negotiating position(s) to be adopted by the BBOT or SBOT as relevant. It should be noted that this does <u>not</u> include any training, background information and general discussions which give any

trustees of BBOT or SBOT a full understanding of the context in which the Funding Decisions are to be taken. Note Strategic Advice is specific to each Board i.e. SBOT Strategic Advice pertains to Strategic Discussions at the SBOT and BBOT Strategic Advice pertains to Strategic Discussions at the BBOT.

Strategic Discussions Discussions at either BBOT or SBOT (formal or informal) that pertain to Strategic Advice

Introduction

1. BBOT Trustees have a legal obligation to act in the best interests of Barnardo's, in accordance with the charity's governing document (the Articles of Association), charity and company law.
2. Two (reducing to one with effect from 31 March 2021) BBOT Trustees (the ENTs) are also SBOT Trustees and, as such, have a fiduciary duty to act in the best interest of the Scheme's beneficiaries in matters relating to the Scheme. This policy is to be effective from 31 March 2021 so as to eliminate the complication of the additional conflict.
3. Taking into account the fiduciary duties of Scheme trustees, guidance from the Charity Commission on conflicts of interest and the importance of being able to demonstrate that any BBOT decisions are only taken in the best interests of the charity, Barnardo's standard policy on conflicts of interest approved in May 2020 will not suffice. This specific policy on managing conflicts of interest in relation to the Funding Decisions (the **Funding Decisions Conflicts of Interest Policy**) has therefore been agreed by BBOT.

Overriding principles

4. Before any BBOT Strategic Advice is received by the BBOT or SBOT Strategic Advice is received by the SBOT, any conflicts and potential conflicts of interest in relation to the Funding Decisions are to be identified, noted and, where necessary, managed.
5. In relation to potential BBOT/SBOT Funding Decisions:
 - 5.1. There is no constitutional requirement for a potentially conflicted trustee to resign or be removed as a trustee from either BBOT or SBOT.
 - 5.2. The Charity Commission recommends, in the case of a serious conflict¹, considering removal of the conflict of interest, which might mean removing or not appointing relevant trustees or "proceeding with the issue in a different way so that a conflict of interest does not arise".
 - 5.3. Notwithstanding 5.1, BBOT's legal advice is that no person should act as trustee of both the BBOT and the SBOT in relation to the Funding Decisions to ensure that those decisions cannot be seen to have been influenced by an actual or potential conflict of interest.
 - 5.4. Notwithstanding 5.2 and 5.3, it is not in the best interests of either Barnardo's or (based on the opinion of the Independent Chair of the Scheme) the Scheme for

¹ Includes those which "are so acute or extensive that the trustees are unable to make their decisions in the best interests of the charity or could be seen to be unable to do so" and those which "are present in significant or high risk decisions of the trustees".

the ENTs to be excluded from both the BBOT and the SBOT discussions and voting relating to the Funding Decisions. Therefore:

- 5.4.1. Any person who is a trustee of both BBOT and SBOT must withdraw from discussions relating to the Funding Decisions of both boards if he or she is in possession of Strategic Advice in relation to both BBOT and SBOT at the time of those discussions;
 - 5.4.2. Subject to 5.4.1, if possible, action should be taken to enable a person who is a trustee of both the BBOT and the SBOT to play a role in the discussions and decisions of either BBOT or the SBOT (but not both), provided he or she is not in possession of Strategic Advice relating to the other Board at the time of such discussions or decisions, as agreed by all relevant parties at the time the conflict situation is assessed.
- 5.5. Where possible, any actual or potential conflict of interest of a BBOT/SBOT trustee should be managed to enable both the BBOT and the SBOT to retain trustees with specific expertise in pensions matters to participate in the Funding Decisions and to ensure that the SBOT is able to benefit from a strong level of ENT experience.

Approach

6. For this policy and procedure to work the BBOT trustees have agreed that they must:
 - 6.1. acknowledge any potential or actual conflict of interest in respect of the Funding Decisions they may have;
 - 6.2. be open with each other on any conflicts of interest in respect of the Funding Decisions they may have;
 - 6.3. adopt practical solutions, whilst ensuring that they can demonstrate that decisions have been taken in the best interests of the charity and without being influenced by any actual or potential conflicts of interest; and
 - 6.4. plan ahead and agree on how they will manage any actual or potential conflicts of interest which arise in respect of the Funding Decisions.

Procedure

7. With these objectives in mind the trustees have adopted the following procedures:

Administration

8. To record in this document how trustees will manage actual and potential conflicts of interest in respect of the Funding Decisions.
9. All BBOT Trustees declare any new potential or actual conflicts of interest at the start of each BBOT meeting, with existing conflicts being previously disclosed and summarised in a Register of Interests. This Register is updated at least annually in advance of the external audit and as and when conflicts are notified.

Funding Decisions

10. ENT (BBOT), in this case Dennis Hone, to withdraw from the SBOT in respect of all matters relating to the Funding Decisions and confirm in writing that he has not received any SBOT Strategic Advice. Provided he can do so, he will be entitled to participate in BBOT meetings and discussions relating to the Funding Decisions, count in the quorum and vote on all applicable decisions.

11. ENT (BBOT) to lead BBOT's negotiations with the SBOT and attend meetings of the SBOT *only in his capacity as BBOT spokesperson and not in his capacity as trustee of SBOT*. To underline his status as representative of BBOT, ENT (BBOT) must attend SBOT meetings and discussions (formal and informal) with another BBOT representative who should not themselves have been a SBOT board member at any stage. It is proposed that this will be Barnardo's Corporate Director – Business Services (CDBS). The ENT (BBOT) and CDBS may be accompanied by other BBOT advisers.
12. ENT (BBOT)'s decision to withdraw from the SBOT in respect of all matters relating to the Funding Decisions and to continue as trustee of BBOT to be formally approved by the Independent Chair of SBOT.
13. Written confirmation to be sought from the Independent Chair on behalf of the SBOT that the SBOT accept that the ENT (BBOT) will participate in meetings and discussions of the SBOT in relation to the Funding Decisions only in his capacity as BBOT spokesperson and not in his capacity as trustee of SBOT, and that the ENT (BBOT) shall be entitled to act solely in the best interests of Barnardo's in all matters relating to the Funding Decisions.
14. Written confirmation to be sought from the ENTs, and the Independent Chair on his own account and on behalf of the MNTs, that they have not, to date, received any SBOT Strategic Advice.
15. Written confirmation to be sought from all BBOT trustees that they have not, to date, received any BBOT Strategic Advice.
16. All relevant persons, including professional advisers to both boards, to be informed that no Strategic Advice should be sent to the BBOT or the SBOT until:
 - 16.1. This Funding Decisions Conflicts of Interest Policy has been approved by the BBOT.
 - 16.2. BBOT and SBOT have confirmed in writing (from the Chair of each to the Company Secretary of Barnardo's) that they are happy that the Funding Decisions Conflicts of Interest Policy has been followed and actual or potential conflicts of interest of BBOT/SBOT trustees relating to the Funding Decisions have been managed appropriately.