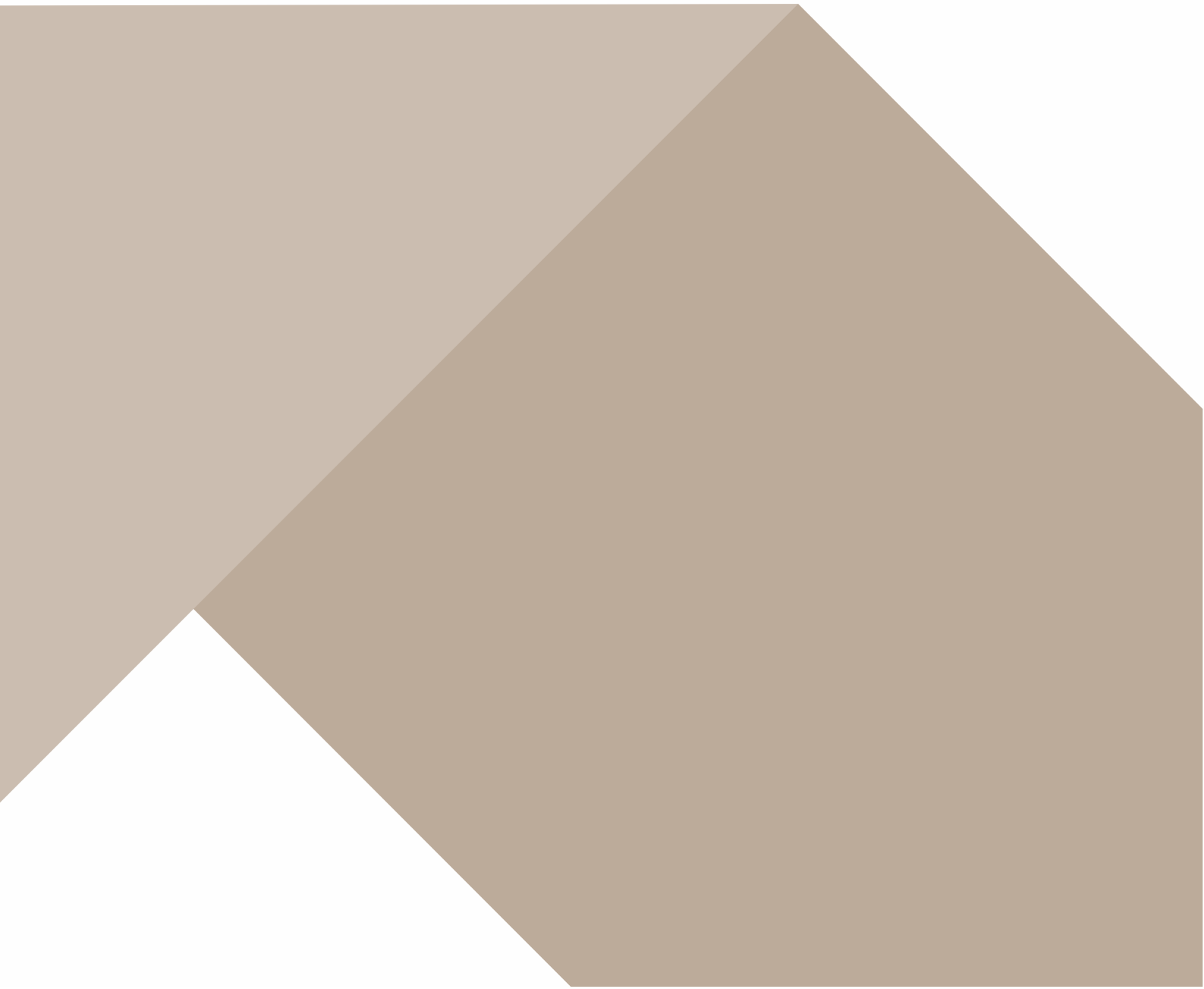


Group Policy on Non-Executive Director conflicts of interest



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Haddii aad na weydiisato waxaanu warbixintan kugu siin karaa iyadoo ku qoran luuqad kale, farta ay dadka indhaha la' akhriyaan ama cajalad ku duuban. Haddii aad jeclaan lahayd in warbixintan lagugu siiyo mid ka mid ah qaababkaas, fadlan nagala soo xidhiidh telefoonka 0800 479 7979.

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1. Introduction

1.1 Wheatley Housing Group Limited (the "Parent") is a Registered Social Landlord ("RSL"). It is the parent in a group structure (the "Group") which contains organisations constituted in a range of ways. We operate within a regulated sector which has a strong reputation for integrity and accountability. We have a duty to ensure that, as a Group, we conduct our affairs with honesty and integrity and support upholding the reputation of the wider sector. In this Group policy, except as otherwise expressly provided herein or unless the context otherwise requires, the terms "we" and "our" are references to the Group.

2. Policy scope, aims and objectives

2.1 We are committed to the highest possible standards of openness, probity and accountability and conducting our affairs with honesty and integrity. This Group policy sets out how we will achieve this in relation to the management of Conflicts of Interest.

2.2 Within our Group we have a mixture of charitable and non-charitable companies and registered societies. Whilst the underlying principles are broadly similar, the law, statutory guidance and recommended practice on conflicts of interest that applies to each Group member varies. However, all Group members are covered by the scope of this policy.

2.3 This policy sets out our Group position and must be read in conjunction with the constitution of each individual entity in our Group and our Group Code of Conduct. In the event of any discrepancies, the provisions of the constitution of the relevant Group member (including, but not limited to, any provision which allows the directors to authorise a conflict of interest) will take priority over the terms of this policy.

2.4 This policy is designated as a Group policy which means that it applies to Non-Executive Directors of every organisation in our Group. For the purposes of this policy "Non-Executive Directors" are defined as follows:

- all governing body and committee members within the Group, including co-opted governing body and committee members.

2.5 The aims and objectives of this policy are to:

- Set out the legal and regulatory requirements applicable to the Group;
- Provide Non-Executive Directors and Board Chairs with guiding principles and, where necessary, clear, prescriptive guidance for making decisions in relation to conflicts of interest;
- Prevent Non-Executive Directors being placed in a position where their integrity or that of the Group could be called into question;
- Set out the formal arrangements for recording interests; and
- Confirm the reporting arrangements for declarations of interest.

3. Equal opportunities statement

3.1 We are committed to providing fair and equal treatment for all our stakeholders, including any tenants of any members of the Group, and will not discriminate against anyone on the grounds of race, ethnic or national origin, language, religion, belief, age, gender, sexual orientation, marital status, family circumstances, employment status, physical ability or mental health.

3.2 We take appropriate action to address inequalities likely to result or resulting from the implementation of the policy and procedures.

4. What is, or may, constitute a conflict of interest?

4.1 A conflict of interest occurs when an individual's personal interests (including family, friendships, financial and / or social factors) are such that they could compromise their judgements, actions or decisions. It is not necessary for any element of personal gain to be present in order for a conflict of interest to exist. When we refer to conflicts of interest it is important to note that we include both actual and potential conflicts.

4.2 It is also important that cognisance is given to what could be perceived to be a conflict of interest. We must therefore also take into account what could reasonably be perceived as a conflict of interest, either actual or potential.

4.3 Given the scale and nature of our Group, our Non-Executive Directors often have connections with the sectors in which we operate or receive services from, and conflicts of interest can and do arise. It is therefore important that we have procedures in place to identify, manage and record any such conflicts of interest.

4.4 Common types of conflict include:

Direct financial interest

4.5 This occurs where a Non-Executive Director obtains a direct financial benefit, including, but not limited to, receiving a payment directly from a Group member or via a contract awarded by a Group member to an organisation with which the relevant Non-Executive Director is involved or in which they have a direct or indirect interest.

Indirect financial interest

4.6 This occurs where a close associate of a Non-Executive Director receives a financial benefit, including, but not limited to, the award of an employment contract by a Group member or via a contract award by a Group member to an organisation with which that close associate is involved or in which they have a direct or indirect interest. Appendix 3 sets those persons who may be considered as close associates.

Non-financial or personal conflict

4.7 This occurs where a Non-Executive Director receives no financial benefit, but is influenced by external factors, such as:

- making a decision in order to gain an intangible benefit or kudos; or
- making a decision to award a contract to a person or organisation with whom they have a personal relationship.

Intra-group directorships

4.8 Having more than one directorship in the Group may also give rise to a conflict of interest. In particular, care must be taken when a Group Board Non-Executive Director or Chair Director (“Group Board Director”), sits on the governing body of two or more Group members are entering into a contract or other legal arrangement with each other. In such circumstances, the constitutions of each Group member must be referred to. It is the Group position that in the event that a Group Board Director sits on the governing body of more than one entity then in a conflict situation:

- (i) Group Board Directors are authorised by the Parent to participate in decision making with the Board of primary appointment and/or a Board of which they are chair. The Board of primary appointment will usually be the Board to which a Non-Executive Director is first appointed.
- (ii) Where a Group Board Director’s primary appointment is to the Parent and they are not a subsidiary chair, the Group Board Director should participate in decision making by the Parent and will be conflicted from decision making at subsidiary level.

4.9 Not all intra-group relationships will of themselves result in a conflict of interest and a Non-Executive Director will not necessarily be de-barred from voting in relation to a matter involving another Group member of which they are also a Non-Executive Director. Some examples of common intra-group scenarios are included in Appendix 1 in order to provide Non-Executive Directors with general guidance in relation to scenarios in which a conflict of interest may arise.

4.10 Notwithstanding the terms of the general guidance in Appendix 1, Non-Executive Directors must always ensure that they comply with their legal and regulatory duties (see below) and are therefore required to consider the specific circumstances of each case. If there is any doubt about an actual or potential conflict of interest, then advice must be sought through the Group Company Secretary.

5. Legal and regulatory position

5.1 This section of our policy provides a summary of the regimes that apply across our Group.

Companies

5.2 Non-Executive Directors and Committee members of those members of our Group that are constituted as companies must comply with their common law duties and the duties contained in sections 172 -182 of the Companies Act 2006. The following specific statutory duties apply in relation to conflicts of interest:

- s.175 – a director must avoid a situation in which they have or could have a direct or indirect interest that conflicts or may conflict with the interested of the company (situational conflict)
- s.177 and 182 – directors must declare to the board their interests in any existing or proposed transactions to which the company is a party transactional conflicts (transactional conflict)

5.3 These duties are not infringed if the situation is such that it cannot be reasonably regarded as likely to give rise to a conflict of interest or if it is authorised by the other directors for the purposes of section 175 of the Companies Act, in terms of which the directors of a company may authorise any actual or potential conflicts of interest provided:

- For public companies (in the case of the Group: Wheatley Group Capital plc) – the articles permit it;
- For private companies constituted before 1 October 2008 (in the case of the Group: WLHP and DGHP) – an ordinary resolution of members has been passed and permits the Board to use the power to authorise conflicts. The resolution must be filed at Companies House; and
- For private companies formed after 1 October 2008 – there is nothing in the articles preventing this. In the case of our Group, the constitutions usually require the Parent to approve a directors' interest.

Registered Societies

5.4 The specific provisions of the Companies Act do not directly apply to entities that are constituted as Registered Societies under the Co-operative and Community Benefit Societies Act 2014. Nevertheless, Non-Executive Directors of Group members constituted as Registered Societies have similar legal duties to those of company director by virtue of applicable legislation, regulatory requirements and common law. In relation to conflicts of interest, this means:

- Non-Executive Directors must act in good faith and disclose any conflict of interest they may have in relation to contracts or transactions involving the Group member; and
- Non-Executive Directors must comply with this policy and ensure that the assets of the Group member are dealt with in accordance with the best interests of the Group member.

Charities

5.5 Non-Executive Directors of Group members constituted as companies or Registered Societies that are also charities are subject to an additional layer of regulation in terms of the Charities and Trustee Investment (Scotland) Act 2005 (the "2005 Act") as supplemented by guidance issued from time to time by the Office of the Scottish Charity Regulator ("OSCR"). In terms of the 2005 Act, Non-Executive Directors of Group members registered as charities are "charity trustees" and are subject to specific statutory duties.

5.6 In relation to conflicts of interest, OSCR makes it clear that there are two types of conflict: appointment conflict and personal conflict.

Appointment conflict:

5.7 An appointment conflict will arise between a charity trustee and the person or organisation which appointed them.

For example:

A charity trustee appointed by a local authority and a decision is required on a matter which affects both the charity and the other organisation.

5.8 Within our Group, the risk of an appointment conflict only arises in relation to Wheatley Homes Glasgow and Board places filled by individuals who are also Glasgow City Council Councillors. As these appointments are now defined as being in a personal capacity i.e. not 'appointed by' a declarations of interest should be declared in the normal way.

5.9 Where there is an appointment conflict, the charity trustee must put the interests of the charity first. However, where another duty prevents the charity trustee from putting the interests of the charity first they must disclose the conflict and not participate in any discussion or decision making on the matter.

5.10 It is important that, even where there appears to be a conflict of interest, whether it materialises or not, the Non-Executive Director in question take appropriate steps to manage the conflict and be seen to be acting in the best interests of the charity.

5.11 **Personal conflict:** When a Non-Executive Director might not be able to do what is best for the charity because it conflicts with their own personal or business interest in relation to that matter.

For example:

When a charity is considering a contract with a business and one of the charity trustees is also a director of that business.

5.12 Where there is a personal conflict:

- The Non-Executive Director must act in the best interests of the charity and not in their own personal interests or those of any other person or organisation. Non-Executive Directors should therefore not bring themselves into conflict with the interests of the charity through their own actions;
- In circumstances which are capable of giving rise to a conflict of interest between the charity and any third party which is responsible for the appointment of a Non-Executive Director, that Non-Executive Director must either (a) put the interests of the charity before those of the third party or (b) if any other duty prevents the Non-Executive Director from doing so, the Non-Executive Director must disclose the conflicting interest to the charity and refrain from participating in any deliberations or decision-making of the other Non-Executive Directors in relation to the matter in question;
- A Non-Executive Director also has a responsibility to take reasonable steps to ensure that their fellow Non-Executive Directors avoid conflicts of interest. If there is a breach of the duty to avoid conflicts of interest, the Non-Executive Directors must then take steps to ensure that the breach is corrected and not repeated; and
- If a Non-Executive Director considers that they cannot give priority to the interests of the charity, the Non-Executive Director must declare the actual or potential conflict of interest at the earliest opportunity to the other Non-Executive Directors and not participate in any discussion or decision-making on the matter.

6. Identifying, Managing and Recording

Identify

- 6.1 Under our Group Code of Conduct all Non-Executive Directors are **required** to complete a Registration of Interests (“ROI”) form, which allows interest to be recorded and shared among the other Non-Executive Directors. A copy of the ROI form is issued to all Non-Executive Directors via the Group Company Secretary. The information in the ROI form seeks to capture both actual and potential interests. This recognises that, for example, holding a directorship of any non-Group member may not be an existing interest but could become one in future.
- 6.2 It is each Non-Executive Director's **responsibility** to advise the Group Company Secretary or Deputy Group Company Secretary as soon as practically possible of any changes to their ROI. As part of the Group's Publication Scheme, outside interests are published along with RSL Non-Executive Director biographies on the relevant Group member's website.
- 6.3 Declarations of interest are a standing agenda item at each Board meeting. Under this item Non-Executive Directors are not expected to re-affirm anything on their ROI form unless it impacts upon a matter to be discussed at the meeting.

- 6.4 The ROI form alone is not exhaustive and as such does not capture all actual and potential interests. In particular, interests which could be perceived as a conflict, such as personal relationships, are not always apparent and may not be known in advance.
- 6.5 Appendix 2 sets out some common examples of situations that may give rise to a conflict and how these should be managed. It is important to note that the circumstances of any given scenario will be different for each individual and care must be taken to comply with this policy and the spirit of the guidance.

Manage

- 6.6 Non-Executive Directors must notify the Group Company Secretary or Deputy Group Company Secretary as soon as practicable upon becoming aware of a conflict rather than waiting until a time that may feel more convenient, such as during a particular agenda item at a Board meeting. It is important to remember that this applies to both actual and potential conflicts.
- 6.7 The non-conflicted Non-Executive Directors of the relevant Board, with support from as appropriate, the Group Company Secretary, Deputy Group Company Secretary or Board Lead Executive, shall rule whether a potential, actual or perceived conflict of interest exists within the context of Board and Committee meetings.
- 6.8 The Board's ruling shall be final, save to the extent that the constitution of the relevant Group entity provides that, in the case of an equality of votes, the Chair of the relevant Board shall have a casting vote. Where an interest is deemed to exist, the Board may:
- Allow the Non-Executive Director to remain in the meeting for the relevant item(s) but exclude them from Board/Committees discussions and voting;
 - Instruct the Non-Executive Director not to participate (i.e. temporarily leave) the meeting for the relevant item(s) and not to vote in respect of the relevant item(s); or
 - Provided it is expressly permitted by the terms of the constitution of the relevant Group member, propose to have that interest authorised under the terms of the constitution of the relevant Group member.

If so required by the terms of the constitution of the relevant Group member, a potential, actual or perceived conflict of interest of a Non-Executive Director must be approved by the Parent before it may be authorised by the Board in terms of that constitution.

Record

6.9 ROIs shall be held in a secure, electronic filing system. They shall be available, at the discretion of the Group Company Secretary, to, but not limited to:

- Relevant staff – for the purposes of proactively identifying any actual or potential conflict of interest, such as procurement and contract awards;
- Auditors – to enable them to carry out their statutory duties;
- Funders – as part of any ongoing compliance checks;
- Regulatory bodies – where required for the purposes of meeting regulatory obligations, such as annual returns; and
- Fellow board members.

6.10 Where a conflict is declared and managed in a board meeting, details will be included in the minute.

7. Implementation and review

7.1 The Group Company Secretary shall be responsible for overseeing the implementation and operation of this policy.

7.2 Responsibility for the review and monitoring of the operation of this policy is delegated to the Group Company Secretary. The Group Company Secretary will report on compliance with this Policy to the Group RAAG Committee at a frequency agreed by the Committee.

7.3 Breach of this Policy by a Non-Executive Director may lead to action in terms of the Group Standing Orders and/or Code of Conduct.

7.4 We will review this policy three years after the date of formal approval, or earlier if required.

7.5 We will publish this policy on our website. Customers may also ask for a copy of the policy in other formats and community languages.

8 Relationship to other Policies

8.1 The Policy has key links with the following policies and documents:

- Group Code of Conduct; and
- The constitution of each entity.

8.2 All Non-Executive Directors must ensure they have read and understood their responsibilities set out in our:

- (i) Policy on Gifts, Hospitality, Payments and Benefits; and
- (ii) Guidance on Notifiable Events which contains examples of the types of events which we must report to the Scottish Housing Regulator and the processui0- for doing this.

Appendix 1 – Potential intra-group conflicts

	Scenario	Policy position
1	Non-Executive Director of two or more Group members when considering whether to enter into a loan agreement or finance or security arrangement that involves some or all of these Group members	<p>A conflict of interest may arise where:</p> <ul style="list-style-type: none"> (i) The parties are entering into a loan agreement, such as Lowther Homes borrowing from Wheatley Homes Glasgow; (ii) The parties are guaranteeing the obligations of another/s; or (iii) A Group member grants security over its assets in respect of the debts or other liabilities of another Group member. <p>In these circumstances our external legal advisors shall be asked to advise us on how to declare and manage any conflicts.</p> <p>In general terms, other contracts or transactions between or among Group members – for example, a contract under which one Group member provides services to another Group member – will not result in a conflict of interest for any person who is a Non-Executive Director of both Group members, unless the contract or transaction clearly or disproportionately advantages one Group member and disadvantages the other Group member.</p>
2	Non-Executive Director of Lowther Homes (LH) and a RSL that has developed mid-market rent properties which are to be leased to LH	<p>Cross-directorships within the Group must be recorded in the relevant register of interests.</p> <p>Except in relation to a dispute, this will not usually be considered to give rise to a conflict of interest, on the basis that the provisions of intra-Group leases, including rent levels and related provisions, will in the ordinary course of business be on standard terms which have been drafted to balance the interests of both parties and will not clearly or disproportionately advantage either party.</p>
3	Non-Executive Director of Wheatley Solutions (WS) and a company that receives services from WS	<p>Cross-directorships within the Group and recorded in the relevant register of interests.</p> <p>Except in relation to a dispute, this will not usually be considered to give rise to a conflict of interest</p>
4	Non-Executive Director Board of The Wheatley Foundation Limited (WF) and a RSL whose customers receive a benefit from WF	<p>Cross-directorships within the Group must be disclosed and recorded in the relevant register of interests.</p> <p>Except in relation to a dispute, this will not usually be considered to give rise to a conflict of interest.</p>
5	Member of Group Development Company and a Non-Executive Director of a developing RSL	No conflict exists.

Appendix 2 – Example situations which may give rise to conflict

	Scenario	Policy position
1	I am a tenant and it relates to a service that will affect me	<p>Under our constitutions, a tenant board member shall be deemed not to have an interest in respect of matters relating to tenants or a group of tenants, such as rent reviews or changes to service delivery.</p> <p>A tenant board member shall only have a conflict where a matter relates to their specific tenancy agreement and the rights/obligations thereunder. This is unlikely to occur, but would include for example a situation where there is a Board discussion about whether to carry out repair works to their address only.</p>
2	A closely associated person is applying for employment	<p>If you are aware of this, you should declare this to the Group Company Secretary at the earliest opportunity. If appropriate, you should also advise the applicant to declare this during the application.</p> <p>This would represent a conflict of interests and you would not be permitted to have any part on the process or decision making. The process would also require to be in line with the relevant entities constitution.</p>
3	I have a personal or social connection to an individual who is the is involved in the management of/is a part owner of a prospective contractor	<p>To avoid any perception of actual or potential conflict, you should declare an interest and not participate in decision making.</p> <p>You should also have regard to our Group Policy on Gifts, Hospitality, Payments and Benefits</p>
4	I am acquainted in a professional context with an individual who is involved in the management of a prospective contractor.	<p>To avoid any perception of actual or potential conflict, you should declare an interest and not participate in decision making.</p> <p>You should also have regard to our Group Policy on Gifts, Hospitality, Payments and Benefits</p>
5	I work for / sometimes work for a contractor or prospective contractor	<p>Given the size and scale of the Group it is possible that our Non-Executives may be drawn from organisations which we do business with.</p> <p>Board and Committee members will not typically be involved in the day-to-day procurement of our suppliers/contractors, but may be required to approve certain contract awards or framework appointments such as professional services, development contracts or consultancy services.</p> <p>If you are employed or otherwise engaged with a business that is a prospective contractor, then you must declare an interest and not participate in decision making.</p>

Where it is foreseeable that such a conflict may arise, you should declare this at the earliest possible stage. Under circumstances where you have a live engagement with a prospective contractor you will not be provided with any Board or Committee papers which relate to the award of any contracts to said contractor.

This avoids the potential perception that a contract award has been influenced in order to receive a personal benefit from a contractor.

It is important that Non-Executives adhere to this policy and our Group Policy on Gifts, Hospitality, Payments and Benefits and the guidance on contract awards.

Appendix 3: Close associates

<u>Group 1</u> Members of your household	<u>Group 2</u> People closely associated with you who are not a member of your household	<u>Group 3</u> Others
<ul style="list-style-type: none"> ▪ Anyone who normally lives as part of your household, whether they are related to you or not, including spouses/partners who work away from home or children who are in full-time education but live away during term time 	<ul style="list-style-type: none"> ▪ Parents/step-parents/parents-in-law and their partners ▪ Children/step-children and their partners ▪ Siblings/step-siblings and their partners ▪ Grandparents/step-grandparents and their partners ▪ Someone who is dependent on you ▪ Close friends 	<ul style="list-style-type: none"> ▪ Other relatives ▪ Other friends ▪ Business contacts/associates