

Lundy Field Society *for the study and conservation of a unique island*

Policy on Making Payments to Trustees

All Officers and members of the Executive Committee of the LFS are trustees and are registered as such with the Charity Commission. The concept of an unpaid trusteeship is one of the defining characteristics of the charitable sector, contributing greatly to public confidence in charities. There are sometimes good reasons why it can be in a charity's interests to make a payment to a trustee. Charity Commission advice is to minimise the risks to our reputation and operation and this guidance is designed to clarify the law and good practice where the LFS committee proposes to make payments to committee members (i.e. its trustees).

There are two aspects to making payment to trustees: paying expenses and paying for services provided by a trustee.

Expenses

Trustees are entitled to have their expenses met from the funds of the charity. Commission guidance says that expenses can include a wide range of costs including, for example, travel and other costs of attending meetings, specific telephone and broadband charges, travelling on trustee business, and providing childcare or care of other dependants while attending to trustee business.

In practice most committee members do not claim routine expenses only exceptional ones.

Paying Trustees for Services

Trustees can be paid for providing services to the charities for which they are trustees. The power to do this and the conditions attached to using it, were introduced by the Charities Act 2006 as a change to the Charities Act 1993 (now replaced by the Charities Act 2011).

A charity can pay a trustee for the supply of any services over and above normal trustee duties. The decision to do this must be made by those trustees who will not benefit. They must decide that the service is required by the charity and agree it is in the charity's best interests to make the payment and must comply with certain other conditions.

Examples of services that may be provided by a trustee in return for payment under the power in the Charities Act include:

- the delivery of a lecture
- a piece of research work
- the occasional use of a trustee's premises or facilities
- providing specialist services such as management and design consultants, computer consultancy, and graphic designers

There are a number of conditions, all of which must be met before payment can be made validly. The conditions are that:

1. **There is a written agreement between the charity and the trustee who is to be paid that sets out the exact or maximum amount to be paid.** It is not adequate to record this in the minutes. A separate written agreement must be made accurately describing the service to be provided, the name of the person receiving the payment, and details of the amount of the payment to be made. A copy of the agreement must be retained for at least six years.
2. **The trustee concerned may not take part in decisions made by the committee about the making of the agreement, or about the acceptability of the service provided.** This

is to ensure proper steps are taken to manage a conflict of interest. See the 'Conflict of interest' policy below.

3. **The payment is reasonable in relation to the service to be provided.** We should ensure we are paying no more than the going rate.
4. **The trustees are satisfied that the payment is in the best interests of the charity.** We should be able to show there is a clear advantage in using one of our trustees instead of someone else. This normally means services being provided at a favourable rate.
5. **The committee follows the 'duty of care' set out in the 2000 Act.** We must act honestly and in good faith, and must exercise all reasonable care and skill in reaching the decision.
6. **The total number of trustees who are either receiving payment or who are connected to someone receiving payment are in a minority.**
7. **There is no prohibition against payment of a trustee.** This is normally applied to charitable companies so not applicable to the LFS.

Conflict of Interest Policy

Conflicts of interest are common in charities and we need to act to prevent them from interfering with our abilities to make a decision only in the best interests of the charity. The basic principle is that trustees must not put themselves in a position where their personal interests conflict with their duty to act in the interests of the charity unless authorised to do so.

The Commission's guidance is to take a three step approach:

1. **Identify the conflict of interest.** There is a legal requirement to declare a conflict of interest immediately you are aware of any possibility that your personal or wider interests could influence your decision-making. At an LFS committee meeting we will have a standing agenda item at the beginning meeting to allow trustees to declare any actual or potential conflicts of interest.
2. **Prevent the conflict of interest.** Where there is a conflict of interest, the affected trustee will remove himself or herself from the part of the meeting where the issue is to be discussed or decided. The individual will not vote in the decision and will not be counted when deciding if the meeting is quorate for that decision.
3. **Record the conflict of interest.** This will be a written record in the meeting's minutes including any declarations of conflicts of interest, whether trustees withdrew from discussions and how the trustees took a decision in the best interests of the charity.

Failure to act properly where there is a conflict of interest is a breach of the trustees' legal responsibilities. A transaction affected by a conflict of interest, where the trustees have not acted properly, could be challenged by the Charity Commission or by an interested party. Where they have not acted properly, trustees may have to repay any sums paid by the charity.

Michael Williams
Honorary Secretary
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