



# Conflict of Interest Policy and Guidelines

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<b>Author:</b>	CEO		
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Staff Handbook			
Volunteer Handbook			

# Conflict of Interest Policy

Throughout this policy, reference is made to The Office of The Scottish Charity Regulator (OSCR) and The Charity Commission of England and Wales (CCEW). This is because although BfN is registered as a Scottish charity, the charity operates services and receives funding in England and Wales also. BfN must therefore uphold regulation in different jurisdictions.

The commercial **independence** of BfN is a central pillar of the charity's governance, underpinning a commitment to all women, families and healthcare workers benefiting from the highest standards of evidence-based information and practice at all times. For this reason, our conflict of interest policy also ensures BfN's alignment with the [International Code on Marketing of Breast Milk Substitutes](#).

According to Scottish, English and Welsh charity law, BfN's Directors (also known as Trustees), have a **legal duty** to ensure that **any** 'conflicts of interest' or 'perceived conflicts of interest' in BfN are appropriately identified and responded to. **Directors, staff and volunteers are required by law, to ensure that all decisions, day-to-day action or representation take place only with the charity's best interests in mind, and that there could be no reasonable perception that other personal or business interests are informing our decisions or action.**

BfN's application of Conflict of Interest Policy is within the framework of charity regulation, BfN's Articles of Association and agreed by the full Board of Directors.

## 1. Definitions of Conflict of Interest (COI)

BfN defines conflict of interest according to the following definitions in the regulation:

- i. According to The Scottish regulator, OSCR, a **conflict of interest** is any situation where there is potential for personal or business interests (or the interests of a family member, friend or associate that the Director/ staff member /volunteer is connected with), to be different from the interests of the charity. In a situation in which an individual has other interests in play, it can be difficult for objective decisions and judgments to be made.
- ii. A **perceived conflict of interest** is any situation in which the interests of a Director/ staff / volunteer could be seen to influence their decisions, even if this has not happened in reality. Legally, Directors are obligated to consider where perceived conflicts may impact the charity's reputation or credibility.
- iii. A **serious conflict of interest** occurs where there is persistent or widespread breach of duty of conflict of interest. Legally, failure to identify and address serious conflict of interest will be considered mismanagement or misconduct of the charity, and may be investigated by the regulator. In cases of serious conflict of interest, effective decision-making, action or reputation are or may be undermined, or cannot be managed in line with the provisions in BfN's own policy, strategy and guidance.
- iv. An **appointment conflict** is a conflict of interest that can arise between a charity Director/ staff member/ volunteer and the organisation that appointed them. In BfN this could occur for example, when a Member Director experiences a tension between loyalty to the membership body that elected them, and the agreed priorities of BfN as a registered charity.
- v. A **personal conflict** situation occurs when a potential conflict occurs between what is best for the charity and a personal or financial interest in relation to that matter. For example, if a Director or staff member has to contribute to a decision to no longer support a project where they also volunteer /are employed.

vi. A **conflict of loyalty** occurs when a Director, staff member or volunteer does not stand to gain any benefit, but decision making could be influenced by other interests e.g. towards family, partner, friends, organisations who are part of the Director/ staff member's network, or religious, political or personal views. These loyalties may make it difficult to decide on an issue only in the best interests of the charity.

In many instances, it will be possible to manage these conflicts of loyalty, with appropriate identification, action and monitoring.

vii. Directors are required to ensure that the **benefit** gained by Directors, staff and volunteers, complies with the law and is not at the expense of what is best for the charity. In UK law, Directors are only allowed to personally benefit from the charity, as laid out within BfN's Articles of Association. Staff and contractors are not permitted –legally- to make decisions about their own benefits.

viii. Clause 9 of BfN's Articles of Association makes the following commitment, in line with The **WHO Code on Marketing of Breast Milk Substitutes (1981)**:

*BfN 'shall not enter into any financial arrangement by way of sponsorship or otherwise and whether or not contractual with any body engaged in the business or function in the United Kingdom or elsewhere, and whether directly or indirectly, in (i) the manufacture and/or distribution of breast milk substitutes, feeding bottles, teats or dummies and/or (ii) the wholesaling or retailing of breast milk substitutes, feeding bottles, teats or dummies marketed under names, labels or logos exclusive to the manufacturer, wholesaler or retailer thereof, and for the purposes of this article, a "breast milk substitute" means any food being marketed or otherwise represented as a partial or total replacement for breast milk, whether or not suitable for that purpose.'*

ix. A **representative** is understood to mean any Director, volunteer or staff member who is active or involved in BfN. Any person involved in the charity can shape how the organisation is understood, perceived or taken seriously in the outside world, through their actions, words, messages and behaviours, whether inside or outside work, and whether intentionally or not. Whilst Directors have a legal accountability for how the organisation is represented, all representatives are expected to act in line with BfN's Code of Conduct and [The Nolan Principles of Public Life](#) at all times.

## 2. BfN's Articles of Association:

It is a requirement of registration as a UK charity that BfN's governing document, The Articles of Association, outline the organisation's commitment to addressing conflicts of interest. The following clauses refer to Directors because they have overall accountability for the functioning of the charity. Points a-d and iv below should be understood to apply to all staff and volunteers throughout BfN:

- i. BfN's Articles allow the organisation 'to remunerate Directors for acting as such, or for services provided under a contract of employment or services... in accordance with the 2005 Act' (Clause 8u);
- ii. Clauses 71- 75, 83 and 87 outline the charity's expectation around management of personal interest (or benefit in this case):
  - a. If a Director has a personal interest in 'any transaction or arrangement' which BfN proposes to enter into, they must declare this interest at the outset of a meeting and must not participate in a vote on the matter;

- b. A Director is considered to have a personal interest as a result of their own or 'any partner or other close relative', company 'or any other party who / which is deemed to be connected' with them;
  - c. A Director can personally benefit from a relationship with BfN, providing they declared their interest in advance, they have not participated in the decision-making on this issue and providing the decision complies with limitations (below).
  - d. Remuneration for services provided by a Director to BfN must be documented fully in advance in a written agreement. Other Directors must agree that this remuneration is 'reasonable' and beneficial to the charity. It is only permissible if less than half of Directors are receiving remuneration in a comparable way.
- iii. According to the regulations, other Directors may take the minuted decision that the insight of the conflicted Director can be sought. Any input that could be perceived to influence a particular decision must be noted as a conflicted contribution, at the time this is given.
  - iv. BfN's Articles of Association affirm an expectation that at all times, Directors act 'with care and diligence' to put the interests of BfN above that of any other interest or loyalty (Clause 87ci).
  - v. In summary, BfN's Articles of Association confirm that the organisation will have conflicts of interest and that within the parameters of charity law, in many cases, and with appropriate identification, these can be managed. Specifically where the Board have questions about whether benefits to a fellow Director are within the scope of both BfN's Articles of Association and UK charity law, they are required to contact the charity regulator to seek permission, before approval is given.

### **3. Identifying Conflicts of Interest:**

- i. It is the responsibility of all individuals at BfN to identify and seek to manage their own conflicts of interest. With BfN support, line managers and tutors/ supervisors are responsible for educating about, monitoring and calling out potential conflict of interest and the impact on BfN.
- ii. Directors have a legal responsibility to declare potential conflicts of interest as soon as they become aware of them and to ensure conflicts in the wider organisation are appropriately identified and dealt with. BfN's Code of Conduct (which in the case of staff, forms part of the Terms and Conditions of Employment), requires that staff and volunteers declare any potential conflicts of interest as soon as they arise.
- iii. It is the responsibility of the Chair and Vice Chair, with the support of the CEO that, prior to the appointment of Directors or confirmation of elected Member Directors, a declaration of any potential conflicts of interest is obtained, together with a documented proposal outlining how a potential conflict of interest could be managed.
- iv. If a conflict of interest is perceived to be 'serious', the Chair and Vice Chair, with the support of the CEO, must advise the Director candidate that they do not support appointment/ election to the Board because of the legal duty of Directors to avoid serious conflict of interest.
- v. If a candidate requests that their application / election to the Board is still considered, the Chair and Vice Chair will refer the application to the full Board for a decision about whether a serious conflict of interest applies. In making their decision, the Board may seek regulator and specialist guidance, as required. In a staff or volunteer recruitment, a candidate can appeal this decision by applying to the HR Manager and CEO, who may in turn refer to the Chair and Vice Chair.

- vi. It is the responsibility of recruiting managers, with the support of HR (or Central Support for volunteers), to ensure that in the recruitment of all employed, contracted staff positions and volunteers, a declaration of any potential conflicts of interest is obtained. Before any appointment is confirmed, recruiting managers must ensure that a documented proposal is prepared outlining how a potential conflict of interest could be managed. All conflicts which could be perceived as 'serious' (see above), in line with either the WHO Code, or Charity Law, must be referred to the Chair, Vice Chair and CEO for consideration, before any formal offer is made.
- vii. During recruitment processes, BfN will routinely make use of declarations, interview questions and brief post-interview social media checks to identify any potential conflict of interest, before any formal offer of employment is made. Candidates will be made aware of this practice and given an opportunity to respond to conflict of interest questions that arise.
- viii. All serving Directors, staff and volunteers have a responsibility to confirm with BfN that there is no potential for conflict of interest before accepting any new appointment, whether paid or unpaid, and to prepare a proposed plan for the management of specific conflict situations. Directors should communicate with the Chair and Vice Chair, and staff and volunteers to their line manager or supervisor, in the first instance.
- ix. If a potential conflict of interest occurs once a Director, staff member or volunteer is in post, it is the responsibility of the Director/ staff member /volunteer themselves to declare a change in circumstances, inform the Chair (for Directors/ the CEO) / line manager (for staff) / supervisor (for volunteers), and seek approval for an updated conflict of interest management plan.
- x. Line managers and supervisors may seek advice from the Finance Manager or CEO (via the [ceo@breastfeedingnetwork.org.uk](mailto:ceo@breastfeedingnetwork.org.uk)) on whether a conflict of interest plan protects BfN adequately against risks posed by conflict of interest, and whether a conflict of interest may be assessed to be a serious conflict of interest, or not.
- xi. If at any point, a Director/ staff member/ volunteer has a new serious conflict of interest, this must be referred to the Chair, Vice Chair and CEO for review and decision. It is the responsibility of BfN, and ultimately the Board of Directors, to decide whether a conflict of interest can be managed or not.
- xii. For BfN's governance purposes, a conflict of interest in breach of the WHO Code will always be considered a serious conflict of interest, and treated accordingly.
- xiii. A central register of interests will be maintained. Interests of Directors and senior staff declarations will be reviewed as part of BfN's audit on at least an annual basis.

#### **4. Other Steps to Prevent Conflicts of Interest:**

- i. As part of BfN induction, all volunteers, staff and Directors will receive information and guidance on identifying and managing conflicts of interest.
- ii. BfN line managers will receive information and support to help them to identify, assess and devise plans to manage conflicts of interest, where risks posed to BfN could be considered manageable.
- iii. A declaration of no new conflicts of interest will form part of BfN re-registration.

- iv. Each governance meeting will include an agenda item to declare potential conflicts.
- v. Conflicts of interest will be reported to the Board on a 6-monthly basis by the Finance Manager, at which point learning will be used to inform the development of further guidance and procedures to support Directors, staff and volunteers on conflict of interest management.

## **5. Managing Conflicts of Interest**

### **a) Managing Conflicts of Interest as defined by UK charity law:**

- i. As BfN's Articles of Association outline, a BfN representative who finds that they are in a position of potential or perceived conflict of interest is expected to declare this at the earliest possible opportunity and to remove themselves from the situation or decision-making process where a potential conflict is in play, or could be perceived to be in play.
- ii. If there is a formal record of a meeting or situation in which a conflict of interest occurs, a written record must be kept of who was affected by a conflict of interest, when this conflict was identified and decided, who withdrew and how remaining attendees ensured that decisions made were in the best interests of the charity.
- iii. Whether there was a formal record of the meeting or not, the line manager of the person reporting a conflict, or the Chair and Vice Chair (in the case of a Director or the CEO) must be updated on the situation and course of action taken.
- iv. Following any situation of conflict of interest or perceived conflict of interest, BfN's Register of Interests should be updated.
- v. Directors, staff and volunteers should be aware that Directors have a legal duty to prevent and eliminate serious conflicts of interest throughout BfN's work. If – following appropriate consideration and where necessary, taking professional advice- Directors judge that a serious conflict of interest represents a significant risk to the effectiveness of BfN's governance, its reputation or its credibility with key partners and beneficiaries, they are legally obliged to address the source of this serious conflict of interest. This may include for example, requiring a fellow Director to step down, staff disciplinary action, denying a member continued access to BfN resources or refusal of a donation.

### **b) Managing Conflicts of Interest with the WHO Code:**

- i. Risk of infringement of the WHO Code forms part of BfN's standard risk assessment processes at Board, Senior Management Team and project/ team level. Specific risks and exposure may vary, but could include for example, acceptance of donations, attendance of sponsored sectoral training, partnership with charities or participation in research projects involving non-Code compliant products.
- ii. Volunteers, staff members or Directors with concerns about potential breaches of WHO Code compliance in BfN's work or in the wider sector should bring these to the immediate attention of the CEO, Chair and Vice Chair of BfN. In some cases, BfN will investigate and respond to breaches directly, in other cases, BfN will liaise with key partners including the Baby Feeding Law Group and UNICEF.



## Conflict of Interest Guidelines

### Appendix 1 – Serious conflict of interest:

According to UK regulation:

'Serious conflicts of interest include, but are not limited to, 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,
- are present in significant or high risk decisions of the trustees,
- mean that effective decision making is regularly undermined or cannot be managed in accordance with the required or best practice approach,
- are associated with inappropriate trustee benefit.

In practice removing the conflict of interest is likely to mean:

- not pursuing the course of action,
- proceeding with the issue in a different way so that a conflict of interest does not arise. It could, exceptionally, mean seeking the Commission's prior authority to a continuing and widespread conflict of interest...
- securing the resignation of a trustee affected by a conflict of interest
- not making trustee appointments which will introduce a conflict of interest.'

In staffing and volunteering roles, examples might include situations in which:

- Women and partners cannot reasonably understand the distinction between the services provided by the volunteer in a private capacity/ another organisation with different objectives (including but not limited to personal business);
- An individual has unlimited access to BfN's proprietary materials, which can reasonably be perceived to be used to generate personal or organisational business in an alternative role;
- An individual is perceived to have a concentration of power and influence from different roles within BfN, leading to constraints on holding the individual accountable for their actions;
- An individual has extensive access to funders, commissioners and decision-makers through BfN, which can be used to generate business opportunities for personal benefit, or the benefit of another legal entity in which they are involved.

Management authority, technical leadership within BfN or a more visible profile externally may increase the risk of serious conflict of interest amongst staff and volunteers. However, if unchecked, serious conflicts of interest can take place at all levels of the organisation and can cause significant damage to BfN's reputation, credibility and ultimately, its ability to achieve impact.

### Appendix 2: Guidance on avoiding Conflicts of Interest in our work with women and families:

As a charity, BfN must show that it is **always** acting and making decisions, in the best interests of BfN and the women and families it seeks to serve. A conflict of interest is any situation or decision, where it may *seem* that other interests – not the charity's- may be put first.

As an organisation The Breastfeeding Network does not accept funding (including sponsorship and other gifts) from sources which have a commercial interest in infant feeding. For example, by not

accepting sponsorship from manufacturers or distributors of breast milk substitutes, feeding bottles, teats or dummies, we reduce the risk of putting, or being seen to put commercial interests before those of women, families and BfN.

## **Volunteers and Staff**

Any decision about whether you can combine paid or volunteering activity at BfN, with any paid or volunteering activity with another organisation/ as an independent business, will always require authorisation from BfN. This is because of the legal responsibility that BfN's decision-making body, the Board of Directors, have for how the charity works.

If you hope to combine volunteering or employment with BfN, with other volunteering, employment or business, this **must** be agreed, in advance, with your line manager. In some cases, this decision will need to be referred to senior managers and BfN Directors. You will need to show that you understand and write down the specific situations where you may be 'in conflict' and what concrete steps you will take to manage these conflicts.

If Directors decide that the activity you are proposing to combine with BfN (or multiple activities within BfN), could be a 'serious conflict of interest', they have the legal right to refuse permission.

Some examples of roles where there may be a conflict of interest include:

Breastfeeding trainer or consultant, peer supporter with another organisation, baby/ parent massage instructor, parent blogger, doula, yoga teacher, Trustee in a health or mental health organisation.

In any of these roles, without careful management, there is a risk that you are perceived as benefiting from your BfN activity, training, materials, networks or connections. Not only can this be confusing to parents and partner organisations, it can damage the external reputation of BfN, as a trusted, independent charity, run –as it must be- in the public interest.

## **Where you have received written authorisation from BfN to combine your BfN role with another role you must:**

- Wear your BfN badge and if available, your BfN clothing at all times when representing BfN to support mothers face to face.
- NOT wear your BfN badge and/or BfN clothing at any other time, when in another roles(s). It is your responsibility to ensure that your client is clear that the service they are receiving is **not** being offered by BfN.
- Keep your Supervisor (voluntary role), line manager and HR (paid employment) informed of any changes to your roles. Keeping clear boundaries is part of BfN supervision.
- Supervision, if required in another role, should be sought for this additional role from within the relevant organisation (i.e. not from BfN).
- Keep your BfN role separate from other roles on any advertising or social media (except by explicit agreement with your line manager or project lead).
- Ensure your BfN registration is not used in the promotion of any commercial products or services.
- Await written permission before using / sharing BfN training materials or other commercially sensitive BfN products or services, with others or in business/ business development activity
- Avoid using BfN qualifications in advertising materials or websites relating to any paid role
- Avoid advertising or talking about your other goods and services in the BfN newsletter or other BfN related materials, events, services or social media



- Avoid seeking business from mothers and families via BfN or social media sites (such as Facebook, Instagram, Twitter etc.) where you are also known in your BfN role.
- Not use your business e-mail address or signature line in an e-mail or voicemail on a phone used for BfN. If you do not have a BfN e-mail address you may use your personal or a non-commercial e-mail
- If you have a BfN e-mail address this should be used in all BfN related correspondence

These rules are in addition to any specific actions agreed and monitored with BfN in a conflict of interest management plan, specific to your roles and interests.