



Ruskin College
Oxford

CONFLICTS OF INTEREST POLICY AND PROCEDURE

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CONFLICTS OF INTEREST POLICY AND PROCEDURE

Definition of a conflict of interest:

Any interest, financial or otherwise, which is likely to, or would if publicly known, be perceived as being likely to interfere with the exercise of a governor's/trustee's independent judgement.

This may include:

Financial interests

- Remunerated employment, office, profession or other activity
- Directorship of a company
 - Shareholdings in a company
 - Partnership in a business or professional partnership
 - Consultancies (whether or not remunerated)
 - Trusteeship of a trust where a governor/trustee or his/her partner or spouse or a member of his/her family may be a beneficiary.
 - Gifts or hospitality offered by outside bodies and arising from the person's position as a governor/trustee.

Personal interests

- Membership of another public body, including
 - Local authority
 - Health authority
 - NHS Trust
 - School of college governing body
 - Unremunerated posts, honorary positions and other positions that might give rise to a conflict of interest or trust
 - Membership of closed organisations

Legal Requirement

Each individual governor/trustee must avoid putting themselves in a position where their duty to act only in the best interests of the college could conflict with any personal interest that they may have.

- Individual governors/trustees who fail to identify any conflicts of interest will fail to comply with their personal legal responsibility to avoid conflicts of interest and act only in the best interests of the college.
- The governing body/trustees must ensure that any conflicts of interest do not prevent them from making a decision only in the best interests of the college.

The **Articles of Association** has the following to say on the interests of the members of the Governing Executive:

- 'A member of the Governing Executive shall declare any pecuniary interest in any matter under discussion and shall take no part in the consideration of any such matter in which he or she shall have any such interest and shall not vote thereon and shall withdraw during the course of discussion, other than where proposals for the insurance of members of the Governing Executive against liabilities are being discussed.
- For the purpose of this and the preceding Article a member of the Governing Executive shall be deemed not to be interested in any contract or arrangement or any matter arising thereout if his or her interest therein arises solely by virtue of that Governor being member of the College or member of a company in which he or she holds not more than one per cent of the capital.
- There shall be a Register of Interests maintained by the Clerk. The Governing Executive shall make Procedures for the declaration of interests from time to time. The Register shall be made available for inspection on request by any member of the Governing Executive, any Staff Member, any Student Member or any member of the public.'

The **Protocol for Excellence in Governance** notes that:

'Like other persons with a fiduciary duty, members should seek to avoid putting themselves in a position where there is a conflict (actual or potential) between their personal interests and their duties to the Governing Executive. They should not allow any conflict of interest to arise which might interfere with the exercise of the independent judgement.

Members must not take or hold any interest in any of the College's properties or receive any remuneration for their services (save as a member of the College's staff). Members must disclose to the Governing Executive any financial interest which they have, or may have, in:

- The supply of work or goods to or for the purposes of the College.
- Any contract or proposed contract concerning the College; or
- Any other matter relating to the College

However an interest does not have to be financial for the purposes of disclosure. If it is likely or would, if publicly known, be perceived as being likely to interfere with the exercise of a member's independent judgement, then the interest, financial or otherwise, should:-

- Be reported to the Clerk to the Governors; and
- Be fully disclosed to the Governing Executive before the matter giving rise to the interest is considered.
- Members should withdraw from that part of the meeting at which the matter giving rise to the interest is considered, and on no account may vote in relation to the matter.

Members must not receive gifts, hospitality or benefits of any kind from a third party which might be seen to compromise their personal judgement or integrity. Any offer or receipt of such gifts, hospitality or benefits should immediately be reported to the Clerk to the Governors.

The Clerk to the Governors will maintain a Register of Members Interests which will be updated annually and be open for public inspection. Members are invited to disclose to the Governing Executive all business interests, financial or otherwise, which they or (so far as they are aware) their spouses or partners, children or other close relatives may have.

Members should inform the Clerk to the Governors whenever circumstances change and interests are acquired or lost. In deciding whether an interest should be disclosed, members should have regard to the meaning given to "interest" in section 6 of this Code and in the guidance notes supplied with the Register of Interest form.'

Conflicts of interest usually arise where either:

1. There is a potential financial or measurable benefit directly to a governor, or indirectly through a connected person
2. A governor's duty to the College may compete with a duty or loyalty they owe to another organisation or person.

Governor/Trustee Benefits

Governors/trustees can only benefit from their charity where there is an explicit authority in place before any decision conferring governor/trustee benefit is made.

Examples of benefits to governors/trustees are where the governors/trustees decide to:

- Sell, loan or lease charity assets to a governor/trustee
- Acquire, borrow or lease assets from a governor/trustee
- Pay a governor/trustee for carrying out their governor/trustee role
- Pay a governor/trustee (save as a member of the College's staff) for carrying out a separate paid post within the charity, even if that governor/trustee has recently resigned as a governor/trustee.
- Pay a governor/trustee for carrying out a separate paid post as a director or employee of the charity's subsidiary trading company
- Pay a governor/trustee, or a person or company closely connected to a governor/trustee, for providing a service to the charity-this covers anything that would

be regarded as a service and includes legal, accountancy or consultancy services through to painting or decorating the charity's premises or any other maintenance work.

- Employ a governors/trustees spouse or other close relative at the charity
- Make a grant to a service user governor/trustee or a service user who is a close relative of a governor/trustee.
- Allow a service user governor/trustee to influence service provision to their exclusive advantage.

Conflicts of Loyalty

These conflicts of interest arise because, although the affected governor/trustee does not stand to gain any benefit, the decision making at the charity could be influenced by his or her other interests.

A governor/trustees loyalty to the charity could conflict with his or her loyalty to

- The body that appointed them to the charity, e.g. GFTU, Unison, Oxford City Council, Oxford Brookes
- The membership or section of the charity that appointed them to the governorship/trusteeship
- Another organisation, such as their employer, e.g. WEA
- Another charity of which they are a trustee
- A member of their family
- Another connected person or organisation, e.g. governorship of another college

A conflict of interest arises where the governors/trustees interest could, or could be seen to; interfere with the governors/trustees ability to decide an issue only in the best interests of the charity.

Procedure for preventing conflicts of interest from affecting decision making

Having identified a conflict of interest, governors/trustees must act only in the best interests of the college-considering the issue of the conflict of interest so that any potential effect on decision making is eliminated. How the conflict is prevented from affecting decision making will depend on the circumstances.

- Individual governors/trustees should always declare any conflicts of interest which affect them.
 - In practice this means that individual governors/trustees who fail to declare any conflicts of interest will fail to comply with their governors/trustee duties.
 - The Charity Commission expects there to be a standard agenda item at the beginning of each committee meeting to declare any actual or potential conflicts of interest.
 - A governor/trustee should declare any interest at the earliest possible opportunity and certainly before the agenda item in which an interest is held.
 - If uncertain a governor/trustee should err on the side of openness, declaring the issue and discussing it with other governors/trustees.
 - If a governor/trustee is aware of an undeclared conflict of interest affecting another governor/trustee they should notify the Chair.
- Any failure to declare a conflict of interest is a serious issue.
- The governors/trustees should consider whether serious conflicts of interest should be removed or require the authority of the Charity Commission.
 - Governors/trustees must consider the issue of the conflict of interest so that any potential effect on decision making is eliminated. This may mean that they may decide that removing the conflict of interest is the most effective way of preventing it from affecting decision making.
 - Examples of serious conflicts of interest include:
 - Issues that are so acute or extensive that governors/trustees are unable

- to make their decisions in the best interests of the college/charity, or could be seen to be unable to do so
 - Conflicts of interest that are present in significant or high risk decisions of the governors/trustees
 - Conflicts of interest which mean that effective decision making is regularly undermined or cannot be managed in accordance with the required or best practice approach
 - Conflicts of interest that 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
 - Securing the resignation of the governor/trustee affected by a conflict of interest
 - Not making governor/trustee appointments which will introduce a conflict of interest
 - Where governors/trustees wish to go ahead with a decision affected by a serious conflict of interest they should seek the authority of the Charity Commission.
 - Affected governors/trustees should not participate in any decisions where they stand to gain, whether directly, or indirectly through a connected person
 - The Charity Commission expects the affected individual to be absent from any part of any meeting where the issue is discussed or decided. They should not vote or be counted in deciding whether a meeting is quorate.
 - In the case of a conflict of loyalty, governors/trustees should carefully handle any participation by a conflicted governor/trustee. They should always act in the best interests of the college/charity, protect the college's reputation and be able to demonstrate that they have made decisions in the best interests of the college and independently of any competing interest.
 - The affected governor/trustee should declare the interest. Other governors/trustees must decide what level of participation, if any, is acceptable on the part of the conflicted governor/trustee. Options might include
 - Having registered and fully declared an interest a governor/trustee can participate in the decision (this should be reflected in the governing document)
 - The governor/trustee can stay in the meetings where the decision is discussed and made but not participate
 - The governor/trustee should completely withdraw from the decision making process
 - Irrespective of approach, the written records should document any conflict of interest and how it has been dealt with. The usual way is in the minutes of the meeting. The governors/trustees should ensure that the written record of the decision shows:
 - The nature of the conflict
 - Which governor/trustee was affected
 - Whether any conflicts of interest were declared in advance
 - An outline of the discussion
 - Whether anyone withdrew from the discussion
 - How the trustees took the decision in the best interests of the college/charity.