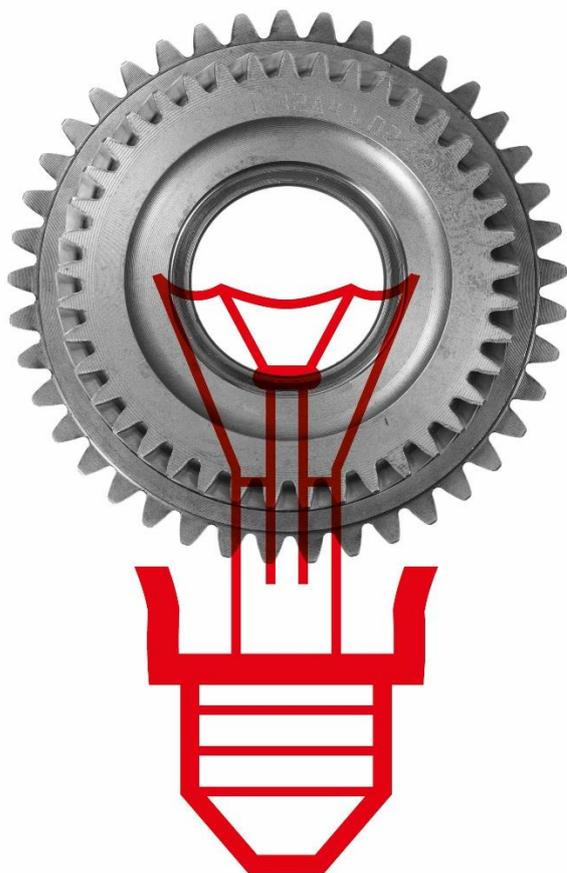


Commonality of Interests Policy

February 2018

Last reviewed and updated: March 2020



Commonality of Interests Policy

1. Introduction

- 1.1 This Commonality of Interests Policy applies to the Board members ("**Governors**") of Bolton College ("the **College**") a charitable company limited by guarantee with company number 11198091 which is a wholly owned subsidiary of the University of Bolton ("the **University**").
- 1.2 A number of Governors of the College are appointed by the University or are members of the College's Board ex officio.
- 1.3 It is recognised that these Governors face a potential conflict of interest or conflict of loyalty as Governors of the College and as employees or Corporation members at University level. It is also recognised that the University and the College will frequently have a commonality of interests in relation to particular transactions and arrangements.
- 1.4 This policy sets out guidelines and procedures in relation to declaring and managing actual and potential conflicts of interest and conflicts of loyalty which arise for Governors of the College by virtue of their connection to the University. The policy outlines how to manage conflicts of interest or conflicts of loyalty when in either case there is a commonality of interests.
- 1.5 Where a Governor has a conflict of interest and there is no commonality of interest then the Governor shall follow the provisions of Article 17 of the Articles of Association of the College ie declare that conflict of interest before the matter in respect of which the conflict arises is discussed by the College and thereafter not take part in or attend or vote at any meeting of the Governors at which that matter is discussed and not be counted in the quorum for such meeting.

2. Definitions

2.1 In this policy references to:

- 2.1.1 "commonality of interests" means a situation in which there is a substantial common interest between the College and the University (for example because both the College and the University's interests align in the context of a particular transaction) or between the interest of that Governor (or any person connected to such Governor) and the College;
- 2.1.2 "conflict of interest" means a situation in which a Governor or a person connected to a Governor has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the College (including, without limitation, in relation to the exploitation of any property, information or opportunity, whether or not the College could take advantage of it but excluding any situation which cannot reasonably be regarded as likely to give rise to a conflict of interest);
- 2.1.3 "conflict of loyalty" means an actual and/or potential conflict in which a Governor's (or any person connected to such Governor) loyalties owed to another organisation, entity or person could be seen to prevent him or her from acting in the best interests of the College, but where neither that Governor nor persons connected to that Governor personally stand to benefit;
- 2.1.4 persons who are "connected" with a Governor means:
 - 2.1.4.1 his or her spouse, civil partner, unmarried partner, children, stepchildren, grandchildren, parents, brothers and sisters, and the spouse, unmarried partner or civil partner of any of them;
 - 2.1.4.2 any person who is in a business partnership with a Governor or any person who is in a business partnership with a member of a Governor's family; and
 - 2.1.4.3 any company, business, trust or organisation in which a Governor (or any other person connected to them) has an interest as a beneficiary or through ownership, control or influence.

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2.1.5 "benefit" includes any payment or material benefit (including property, loans, goods and services), other than reasonable out of pocket expenses or the benefit of an insurance policy.

2.2 The College's Articles of Association sets out procedures in relation to conflicts of interest and conflicts of loyalty at Article 17. This policy should be read in conjunction with the Articles, and relevant provisions in the Articles take precedence over this policy.

2.3 This policy has been prepared with reference to the College's Articles of Association and Charity Commission guidance document CC29: "Conflicts of interest: a guide for charity trustees".

3. **Background: Governors' Duties**

3.1 The Governors of the College are its charity trustees. They have a duty to act in the best interests of the College. In particular, they must not place themselves in a position where they have, or may have, a direct or indirect interest that conflicts with their duties as charity trustee and must not profit from their position as charity trustee except as authorised by the Articles of Association and/or the Charity Commission in accordance with charity law.

3.2 These obligations derive from the general fiduciary duties owed by charity trustees and the Companies Act 2006, which sets out specific requirements in relation to conflicts of interest.

Declaring Conflicts

3.3 All Governors must declare to the Board of the College either at the relevant Board meeting or if in advance of a Board meeting to the Secretary of the College (or if there be no Secretary then to the Chair of the College (or Vice Chair if it is the Chair declaring the conflict of interest or conflict of loyalty)) any conflicts of interest or conflicts of loyalty that might reasonably be regarded as potentially giving rise to an actual or potential conflict in accordance with the following provisions:

3.3.1 Governors' should declare any conflict of interest or conflict of loyalty in the declaration of interests form approved by the Board of the College from time to time. These interests must be recorded in a register of Governors' interests to be maintained by the Company Secretary (of if no Secretary then maintained by the Chair). Each Governor should review the relevant declaration at every Board meeting of the College (and when there is a change in their circumstances, such as a change of employment) and should declare that the information is correct or make a further declaration if necessary.

3.3.2 Governors must declare any potential or actual conflict of loyalty to the University in accordance with Article 17 of the College's Articles.

Managing Conflicts of Interest and Conflicts of Loyalties

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3.4 Where Governors of the College face a conflict of interest or a conflict of loyalty, and there is a substantial commonality of interests, the procedure below should be followed:

3.4.1 The Governor(s) affected should first declare the nature and extent of the conflict of loyalty to the other Governors before discussion of the relevant matter, in accordance with Article 17.2 and clause 3.3 above.

3.4.2 The unconflicted Governors shall consider the conflict and if they resolve that the conflict falls within the definition of commonality of interest then the unconflicted Governors may resolve that the conflicted Governor(s) can remain present at the meeting, count in the quorum and participate fully in the decision-making process, including by voting, and may authorise the conflict accordingly in accordance with Article 17.3.2.

3.4.3 The unconflicted Governors should record their decision to authorise the conflict, and their reasons for doing so, in the minutes of the meeting in question.

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- 3.5 Where Governors of the College face a conflict of loyalty, and there is **not** a commonality of interests, the procedure below should be followed:
- 3.5.1 the procedure set out in clause 3.4 above shall first be followed.
 - 3.5.2 The Governors who are not affected by the conflict of loyalty may resolve to authorise the conflict on such terms as they determine appropriate in accordance with Article 17.3.2. Depending on the nature and extent of the conflict, the unconflicted Governors may decide whether the conflicted Governor(s) should be able to undertake all, some or none of the following actions: remain present at the meeting; count in the quorum; participate in discussions; and/or participate in the decision-making process.
 - 3.5.3 In making this decision, the unconflicted Governors should have regard to:
 - 3.5.3.1 the nature and extent of the conflict of loyalty;
 - 3.5.3.2 what is in the best interests of the College; and
 - 3.5.3.3 the reputation of the College and the impression that their actions and decisions may have on those outside the College.
 - 3.5.4 The unconflicted Governors should record their decision to authorise the conflict, and their reasons for doing so, in the minutes of the meeting in question.

4. Monitor and Review of This Policy

- 4.1 Any Governor who becomes aware of a breach of this policy must report it to the Chair and Secretary (if any) as soon as possible.
- 4.2 This policy must be read by all Governors and should be reviewed annually or sooner if required.

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