

HAVANT & SOUTH DOWNS COLLEGE CORPORATION: DISCLOSURE AND MANAGEMENT OF CONFLICTS OF INTEREST/DUTY

1. Fundamental Principles

- 1.1 This Policy is based on the fundamental principle, enshrined in the College's Instrument & Articles of Government and relevant Charity law, that Governors, who are the equivalent of Charity Trustees, must make their decisions only in the best interests of the College. Accordingly, this means that they must consider the issue of the conflict of interest/duty so that any potential effect on decision making is eliminated. How they do this will depend on the circumstances, as outlined below.
- 1.2 It is a basic principle of charity law that Charity Trustees, such as Corporation members, should not profit from their position, although they are entitled to be reimbursed for expenses actually and reasonably incurred in undertaking the business of the charity. The arrangements for such reimbursement are enshrined in the College's Financial Regulations with which all Governors and co-options must comply. In addition, clause 11 of the Corporation's Instrument of Government allows the Corporation to insure them against liabilities arising from their office.
- 1.3 The Charities Act 2011 provides a detailed process whereby, exceptionally, Charity Trustees or persons connected to them, may be allowed to receive payment from the funds of the charity for goods or services provided by them to the charity under a contract for services. This procedure must be followed if a member or co-options wishes to receive such a payment and advice should be sought from the Clerk in the first instance.
- 1.4 Charity Trustees are not allowed to receive remuneration simply for undertaking their duties as a Trustee without the consent of the Charity Commission. This is only granted in exceptional circumstances. Similarly, Charity Trustees are not allowed to be employed by the charity under a contract of service save where allowed by the charity's governing document (as is the case with the Principal and staff governors), or by law, or with the consent of the Charity Commission, which is only granted in exceptional circumstances.

2. Application of this Policy

- 2.1 This Policy applies to:
- All members of the Corporation;
 - Corporation committee members who are not members of the Corporation (co-options);
 - Senior staff attending Corporation and/or corporation committee meetings; and
 - Any persons connected to them.
- 2.2 The Charities Act 2011 defines a "connected person" which, in broad terms, means family, relatives or business partners of a trustee, as well as businesses in which a trustee has an interest through ownership or influence. The term includes a trustee's spouse or unmarried or civil partner, children, siblings, grandchildren and grandparents, as well as businesses where a trustee or family member holds at least one-fifth of the shareholding or voting rights. If in doubt about whether a person or business is a connected person, advice should be sought from the Clerk.

3. Purposes of the policy

- 1.1 It is the policy of Havant & South Downs College Corporation ("the Corporation") that all Governors, co-options and senior staff will keep to the absolute minimum all unavoidable

conflicts of interest between the interests of the Corporation and the personal, professional and business interests of the member, co-option, or senior staff member concerned, and of any persons connected with them. This includes avoiding as far as possible perceptions of conflicts of interest, as well as potential and actual conflicts of interest.

1.2 The purposes of this policy are:

- To ensure that members comply with their legal duties, including in particular those under the Corporation's Instrument and Articles of Government, and their duty to act only in the best interests of the Corporation;
- To protect the integrity of the Corporation's decision-making process;
- To enable all outside parties dealing with the Corporation to have confidence in the Corporation's integrity; and
- To protect the integrity and reputations of the Corporation's members, committee members and senior staff and the reputation of the College.

4. Disclosure of interests

2.1 In accordance with the Instrument of Government, all members of the Corporation, co-options, and senior staff will be required to make a full written disclosure of any business or personal relationships held, financial or property interests held, or gifts or hospitality received, that could potentially result in a conflict of interests/duty. Any question about whether a member has an interest which should be disclosed should be referred in the first instance to the Clerk for a determination.

2.2 Written disclosures will be kept on a Register maintained by the Clerk to the Corporation and all members, committee members and senior staff are required to update their disclosure as and when their circumstances change. All disclosures will be reviewed on an annual basis at the beginning of each fiscal year. The register will be accessible by any person wishing to inspect it, in accordance with the Corporation's Instrument of Government.

2.3 The information provided in disclosures will be processed in accordance with the data protection principles set out in the Data Protection Act 1998. Data will be processed only to ensure that members [and committee members] act in the best interests of the Corporation. The information provided will not be used for any other purpose.

5. Organisation of meetings where a member has disclosed an interest

3.1 Where a member has previously disclosed an interest and the Chair, on advice from the Clerk, is satisfied that the interest is relevant to an item on the agenda for a meeting of the Corporation or of a corporation committee, the Chair will decide if the member, co-option, senior staff member concerned will receive the papers in respect of that item. If it is agreed that the individual may receive the papers, they will be sent for information only and the individual will not be permitted to comment on them.

3.2 Where the Corporation is seeking to take a decision by written resolution, as permitted in the Instrument of Government, any member who has disclosed an interest considered by the Chair, on the advice of the Clerk, to be relevant to the matter to be decided, will not be sent the proposed resolution and will not be allowed to vote on it.

3.3 In the course of meetings of the Corporation or of a corporation committee and all other relevant Corporation activities, all members, co-options and senior staff will be required to disclose any interests they have in a transaction or decision where they, their family, their employer or their close business or other associates will or may receive a benefit or gain or they have any other interest, such as membership of another College Board. If there is a

failure to declare an interest that is known to the Chair and/or the Clerk the Chair of Corporation (or other such person) or the Clerk will declare that interest. After disclosure of any such interest, the individual concerned may be required by a majority vote of members not subject to such a conflicting interest to leave the room, unless expressly invited to remain, possibly in order to provide information on the matter in hand, whilst the matter is discussed. The individual will not be counted in the quorum for that part of the meeting and will not be permitted to vote on the question. In the case of all other activities, the individual concerned will not be permitted to participate in the consideration or discussion of the matter other than to disclose his or her conflict of interest.

- 3.4 All decisions of the Corporation or committee made following the declaration of a conflict of interest will be reported in the minutes of the meeting. The report will record:
- The nature and extent of the conflict;
 - An outline of the discussion;
 - The actions taken to manage the conflict.
- 3.5 Where a member, co-option or senior staff member benefits from any such decision, this will (if the Corporation's auditors advise this to be necessary) be reported in the annual report and accounts in accordance with relevant accounting requirements.

4. Failure to disclose a relevant interest

- 4.1 The decision of the Chair as to whether a member has failed to disclose a relevant interest shall be final. Failure to disclose a conflicting interest may lead to a member or co-option being in breach of the Corporation's Code of Conduct as well as of this policy. It may also result in the member or co-option being subject to legal action and personal liability for breach of trust. Such breaches may lead to the Corporation considering the possibility of suspending or terminating the member's or co-option's membership of the Corporation [or committee respectively]. Such breaches by a senior member of staff may lead to disciplinary action being taken under the College's staff disciplinary procedures. The Corporation's Standing Orders details the procedure to be used where it is proposed that a member be suspended or have their membership terminated.
- 4.2 Failure by a member to disclose a conflicting interest may also be reported to the Secretary of State as principal charity law regulator. In the case of a serious breach of charitable duties by a Governor, the Secretary of State may refer the matter to the Charity Commission, which has the power under the Charities Act 2011 to remove a charity trustee and/or disqualify a person from acting as a Charity Trustee.