HART LEARNING GROUP

CONFLICTS OF INTEREST POLICY

GOVERNANCE AND CONTROL

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AUDIENCE

Applicable to students?	No
Accessible to students?	Yes
Accessible to public?	Yes

1. INTRODUCTION

1.1. North Hertfordshire College trusts in the professionalism of the staff it employs and the governors who act as its Trustees.

1.2. Nevertheless, conflicts of interest may arise where an individual's personal or family interests and/or loyalties conflict with those of the College. Such conflicts could potentially:

1.2.1. inhibit free discussion;

1.2.2. result in decisions or actions that are not in the interest of the College;

1.2.3. risk the College's reputation if it is perceived that the Governors acted improperly;

1.2.4. leave decisions made by the Governors open to challenge; and

1.2.5. place a Governor in a position where he or she may potentially be in breach of trust. In a 'worst-case' scenario this could lead to a Governor being held personally liable for any loss caused to the College as a result of his or her breach.

1.3. This Conflict of Interest policy is intended to mitigate risks and safeguard student achievements, and to protect both the College and the Governors from any appearance of impropriety.

1.4. It also contributes to the maintenance of awarding body accreditation and certification.

2. DEFINITION AND EXAMPLES OF CONFLICT OF INTEREST

2.1. A conflict of interest occurs when the professional responsibilities and position of trust held by an individual or an organisation are compromised by the potential for personal gain or organisational benefit from a situation or decision.

2.2. Conflicts of interest typically fall into four main types:

Direct financial interests

2.2.1. with the exception of the Principal/CEO and Staff Governors, the payment of a salary to a Governor by the College;

2.2.2. the award by contract to a company which an individual owns or is employed by (note that the Charities Act 2011 provides a statutory framework for the provision of services by a charity trustee to a charity which must be considered if such a situation arises);

2.2.3. the sale of property at below market value to an individual.

Indirect financial interest

2.3. This arises where a person connected to an individual (eg a relative of a Governor or staff member, see definition of “connected person” in Appendix 1) benefits from the College, for example:

2.3.1.1. the award of an employment contract to a family member of a Governor which is made after a Governor is appointed to the Corporation;

2.3.1.2. the award of a grant to a dependent/child.

Non-financial or personal conflicts

2.4. These arise when individuals receive no financial benefit, but are influenced by external factors, for example:

2.4.1.1. influencing decisions in relation to its service provision to their own advantage;

2.4.1.2. to gain some other intangible benefit, for example in boosting a Governor’s personal status;

2.4.1.3. awarding contracts to friends who are not strictly “Connected Persons”.

Conflict of loyalty

2.5. These arise when individual may have competing loyalties between the College, to which they owe a primary duty when acting as a Governor, and some other person or organisation, for example:

2.5.1.1. a Governor might be a trustee of another charitable organisation which is involved in an arrangement with the College;

2.5.1.2. a Governor is a trustee of two charitable/educational organisations competing for the same contract;

2.6. It is essential that all Staff and Governors are fully aware of their duties and responsibilities in respect of identifying and declaring conflicts of interest.

2.7. In particular, Governors must remember that when acting as a Governor they must act in the best interests of the College alone.

3. ACTIVITIES RELATED TO MANAGING A CONFLICT OF INTEREST

3.1. Staff are trained in managing boundaries and related conflicts as part of their induction and are asked each year to identify whether they or any relative are undertaking a course of learning at the college.

3.2. Where there is potential for a conflict of interest, the awarding body will be notified, and their agreement requested prior to the start of the course.

3.3. Any agreed conflict of interest will be recorded on a central log maintained by the examinations team.

3.4. Development is provided for students on key policies including on Conflicts of Interest during their induction and new policies or procedures are introduced in Tutorials.

3.5. Governors and Key Management Personnel are asked to declare any conflicts of interest at least annually and to notify the Governance Professional of any changes during the year.

3.6. Governors are asked to declare any interests relevant to the current meeting of the Board or Committee at each meeting.

3.7. The External Auditors review these declarations as part of their annual audit.

4. DISCLOSURE

4.1. It is important that staff, Governors and students recognise and disclose any situations that present a conflict of interest; for example:

4.1.1. staff applying to study or currently studying within the College where they are an employee:

4.1.2. teaching, assessing, internally verifying or invigilating an exam where a relative, friend or colleague is a student.

4.1.3. students completing an assessment or examination that is supervised or assessed by a member of staff who is a relative, carer or family friend.

4.1.4. Governors having a financial or non-financial interest in a business bidding to become a supplier to the college.

5. FAILURE TO DISCLOSE A CONFLICT OF INTEREST

5.1. If a conflict of interest is identified regarding an examination or assessment that has not been disclosed, the related examination or assessment will be invalidated and the staff or student disciplinary procedure will be activated.

5.2. The qualification awarding body and the Joint Council for Qualifications (JCQ) will be notified of the conflict of interest.

6. PROCEDURE

6.1. A Governor is not required to declare an interest in a matter:

6.1.1. if the situation cannot reasonably be regarded as likely to give rise to a conflict of interest; or

6.1.2. if, or to the extent that, the non-conflicted Governors are already aware, or ought to be aware, of the interest.

6.2. In all other circumstances, if a Governor believes that they have a conflict of interest or that a conflict of interest is reasonably likely to arise, then he or she must:

6.2.1. declare the interest, before the meeting, at the outset of the meeting or at the earliest opportunity when the Governor is aware that a conflict, or potential conflict, has arisen;

6.2.2. if asked to do so by the Chair, withdraw from the meeting whilst the non-conflicted Governors decide how the conflict should be managed; and

6.2.3. withdraw from part of the meeting where the conflict issue is discussed and not vote or count towards the quorum in making a decision relating to the conflict.

6.3. A Governor may be expressly invited by the non-conflicted Governors to remain at the part of the meeting to which he or she is conflicted to provide information. The Governor will not be counted in the quorum for that part of the meeting and must withdraw from the meeting during any vote on the conflicted item.

6.4. If a Governor fails to declare an interest that is known to the Clerk and/or the Chair, the Clerk or the Chair will declare that interest. If other Governors are aware of a potential conflict, he or she will bring this to the attention of the Chair;

6.5. In the event that the Governors have to decide upon a question in which a Governor or Governors has a conflict, decisions will be made by a vote requiring a simple majority. A quorum must be present for the discussion and the decision; interested parties will not be counted when deciding whether the meeting is quorate. Interested Governors may not vote on matters affecting their own interests.

6.6. In the event of a conflict of interest arising in respect of a staff member being related to an individual undertaking learning at the college, the Head of

Department (HoD) and/or Examinations team will take steps to manage the conflict by:

6.6.1. Providing an alternative assessor, internal verifier, invigilator or support worker who is not related to any student.

6.6.2. Informing the awarding body if the teacher is the only available specialist in that subject area to seek their permission and to arrange for any additional scrutiny to monitor fair and impartial approaches.

6.6.3. recording the conflict of interest in the conflict of interest log maintained by the examinations team.

6.6.4. providing details of conflicts of interest to visiting External Quality Assurers and External Examiners or others associated with the awarding body for the relevant qualification.

7. AUTHORISING CONFLICTS OF INTEREST

7.1. Direct and indirect conflicts of interest Conflicts of Interest may be authorised by any of the following:

7.1.1. a provision of the College's Instrument and Articles of Government;

7.1.2. the Charity Commission;

7.1.3. the court; and

7.1.4. a specific statutory provision (e.g. section 185 Charities Act 2011 permitting the provision of services and goods by a trustee to a charity, see section 9).

8. CONFLICTS OF LOYALTY

8.1. The Charity Commission guidance on conflicts of interest (CC29) provides that a conflict may be authorised where there is no personal direct or indirect benefit to a Governor (i.e. in conflict of loyalty situations). In conflicts of loyalty situations, the College Commission advises that where it is in the best interests of the College to authorise a conflict and where the conflict in question poses a low risk to the College, a Governor may be authorised by the non-conflicted Governors to take part in discussions relating to the conflict and participate in the decision making process. If the Governors decide to authorise a conflict they must have regard to the College Commission's latest guidance.

9. RECORDING CONFLICTS OF INTEREST

9.1. All decisions under a conflict of interest will be reported in the minutes of the meeting. The report will record:

9.1.1. the nature and extent of the conflict;

9.1.2. which Governor or Governors were affected;

9.1.3. whether any conflicts of interest were declared in advance or during the course of the meeting;

9.1.4. whether anyone withdrew from the discussion; and

9.1.5. the actions taken by the Governors to manage the conflict and details of how the governors took the decision in the best interests of the College.

10. REGISTER OF GOVERNORS' INTERESTS

10.1. In order to help Governors identify potential conflicts of interest, the Clerk will maintain a register of interests that will be updated at least annually.

10.2. This register will be published on the College website and remain for three years.

11. DATA PROTECTION

11.1. The information provided in the Register of Interests will be processed in accordance with data protection principles as set out in the Data Protection Act 1998 and the General Data Protection Regulation 2018 (as amended).

11.2. Data will be processed only to ensure that Governors act in the best interests of the College. The information provided will not be used for any other purpose.

12. COMPLAINTS

12.1. If a student or staff member believes that a declaration of conflict of interest has not been managed correctly they may raise a complaint using the Complaint's Policy.

12.2. If a student or staff member is concerned that the Complaints Policy does not provide sufficient protection, they ,may alternatively use the Whistleblowing Policy.

12.3. If the full complaints procedure has been exhausted and the issue remains unresolved in line with direction in the Complaints Policy, FE students may refer their concern to The Education and Skills Funding Agency.

12.4. An HE student may refer the complaint to the Office of the Independent Adjudicator. Complaints Team, Education and Skills Funding Agency Cheylesmore House, Quinton Road, Coventry, CV1 2WT.

12.5. The Office of the Independent Adjudicator for Higher Education (OIA) runs an independent scheme to review student complaints. North Hertfordshire College is a member of this scheme.

12.6. If you are unhappy with the outcome you may be able to ask the OIA to review your complaint. You can find more information about making a complaint to the OIA, what it can and can't look at and what it can do to put things right here: https://www.oiahe.org.uk/students.

12.7. You normally need to have completed the procedure detailed in the Complaints Policy before you complain to the OIA. We will send you a letter called a "Completion of Procedures Letter" when you have reached the end of our processes and there are no further steps you can take internally.

12.8. If your complaint is not upheld, North Hertfordshire College will issue you with a Completion of Procedures Letter automatically. If your complaint is upheld or partly upheld you can ask for a Completion of Procedures Letter if you want one.

12.9. You can find more information about Completion of Procedures Letters and when you should expect to receive one here: https://www.oiahe.org.uk/providers/completion-of-procedures-letters.

13. REVIEW

13.1. The Policy will be reviewed every three years or as required by changes to legislative or regulatory guidance.

14. RELATED POLICIES

- Whistleblowing
- Anti-bribery
- Anti-fraud
- Financial Regulations

ANNEX A: COMPLETION OF PROCEDURES LETTER TEMPLATE

This template is for complaints closed on or after 9 July 2015.

Please note - the format may be adjusted to meet the individual circumstances of a complaint provided that the key points below are included.

Dear [Name of complainant],

Completion of Procedures Letter

This letter confirms that the internal procedures of [name of higher education provider] in relation to your complaint / appeal etc* regarding [please describe] have been completed.

The issues that you raised in your complaint / appeal etc* were [details]

The issue(s) that were considered in relation to your complaint / appeal etc was / were*: [brief summary of the complaint etc].

The final decision of [name of higher education provider] is* [detail] because [reasons].

The procedures / regulations applied were*: [details and date as supplied to the OIA's electronic Regulations Bank].

[Name of provider] subscribes to the independent scheme for the review of student complaints. If you are dissatisfied with the outcome you may be able to apply for a review of your complaint / appeal etc* to the Office of the Independent Adjudicator for Higher Education (OIA) provided that the complaint you take to the OIA is eligible under its Rules.

Should you decide to make a complaint to the OIA, your OIA Complaint Form must be received by the OIA within 12 months of the date of this letter, that is, it must be received by the OIA on or before [insert date - e.g. if the Completion of Procedures Letter is dated 9 July 2015, this date should be 9 July 2016].

[Include here any factors of which the provider is aware that mean it is particularly important for the student to bring the complaint promptly.]

You can fill in the OIA's complaint form online or download a copy from the OIA website. The OIA also publishes An Introduction to the OIA Scheme for Students, which can be downloaded from . Alternatively, you can telephone or write to the OIA for a form. You should send a copy of this letter [*optional - and our final decision*] to the OIA with your OIA Complaint Form.

Guidance on submitting a complaint to the OIA and the OIA Complaint Form can also be found on the OIA's website https://www.oiahe.org.uk/students/how-to-complain-to-us/. You may also wish to seek advice from the Students' Union about taking your complaint to the OIA.

Please note that the OIA will normally only review issues that have been followed and fully completed the provider's internal processes for addressing complaints.

Yours sincerely,

[Authorised signatory]