

Conflict of Interest Policy

Owner: Governance Advisor and Clerk to Governing Body	Related Strategies: Financial Regulations
Relevant to: Governing Body, Executive Leadership Team, College staff with budget responsibilities All staff involved in assessing students	

Office Use only:

Corporate Intranet Family: Corporate and Legal	Approval Board/Committee/Group: ARAC Executive Owner: Governance Advisor and Clerk to Governing Body	Approval/Re-approval Date: March 2016 (previous format)/ March 2023	Implementation Date: April 2023	Next Review Date: March 2026
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Date: 3/3/2023	Doc Name: Conflict-of-interest_redraftMarch2023	
Originator: Governance Advisor	Family: Corporate & Legal	Page 1 of 17

New Policy or Substantive Policy Review

Version	Date	Policy Development Agreed by <i>(Executive Owner)</i>	Policy Development Author	Draft Policy Verified by	Policy Approval	Impact Assessment <i>(if applicable)</i>
1	March 2023	GAC	GAC	ELT	ARAC	n/a

Rationale for new or substantive policy review	Review of March 2016 policy to ensure it is consistent with the expectations of Managing Public Money and the latest Code of Good Governance (draft)
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Periodic Policy Review / Change History

Version	Date of Review / Revision	Description of Change	Reviewed By	Approved By <i>(Executive Owner)</i>
1.3	22/3/23	Governors and staff subject to the policy are required to disclose the names and interests of close family members by default in a Related Party Transactions form, and include known conflicts in the Corporation Register of Interests	ARAC	GB
		Governing Body to publish the Corporation Register of Interests on the college website annually	ARAC	GB
		New section added on Conflicts of Loyalty and the appearance of influence,	ARAC	GB
		Where third party payments are disclosed, ARAC to have oversight to ensure there is no real or apparent undue influence in how the performance of a contract or provision of services is monitored	ARAC	GB
		the scope of the policy extends to staff involved in assessment when a conflict of interest arises because they are assessing a close family	ARAC	GB
		Data Protection section amended to clarify that people covered by the policy need not disclose political and trade union membership but governors must disclose if they occupy a paid or unpaid role which involves representing staff in negotiations with the college on staff pay and conditions.	ARAC	GB

Communication

To be agreed by Executive Leadership Team

Announcement on hub	<input type="checkbox"/>	SLT email	<input checked="" type="checkbox"/>
College newsletter	<input type="checkbox"/>	All staff email	<input type="checkbox"/>
CLT meeting	<input checked="" type="checkbox"/>	Cascade brief	<input type="checkbox"/>
External website	<input checked="" type="checkbox"/>	Training needed (specify who)	<input checked="" type="checkbox"/>

Date: 23/3/2023	Doc Name: Conflict-of-interest_redraftMarch2023	
Originator: Governance Advisor	Family: Corporate & Legal	Page 2 of 17

1. POLICY STATEMENT

It is the policy of The Sheffield College Governing Body that all governors and senior staff attending Governing Body and/or committee meetings must keep to the absolute minimum unavoidable conflicts between the interests of Governing Body on the one hand and the personal, professional and business interests of the Governor or senior staff concerned, and of persons connected with them, on the other. This includes avoiding as far as possible perceptions of conflicts of interest, as well as potential and actual conflicts of interest.

A conflict of duty may arise where a member of Governing Body, a committee member or a member of staff with budget responsibility has a duty towards another person or organisation that could prevent them from making a decision only in the best interests of the college.

Conflicts of Interest may arise or be perceived to arise where a member of college staff or someone acting for the college such as an apprentice workplace assessor is assessing the application or work of a Connected Person. In such circumstances, staff must follow college requirements for disclosing the interest and taking action to ensure that admissions and assessment decisions are made by people who do not have a conflict.

2. DEFINITIONS

Conflict of interest: a conflict of interest is any situation in which personal interests or loyalties could, or could be seen to, prevent governors or staff from making a decision only in the best interests of the college.

Connected person: in broad terms this means family, relatives or business partners of someone within the scope of the policy, as well as businesses in which they have an interest through ownership or influence. The term includes a spouse or unmarried or civil partner, children, siblings, grandchildren and grandparents, as well as businesses where they or a 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 seek advice from the Governance Advisor and Clerk to Governing Body or other person qualified to advise on the matter.

Interest: means any business or personal relationships held, financial or property interests held, other trusteeships, or gifts or hospitality received, that could be perceived as being likely to interfere with the exercise of a governor's independent judgement.

Trustee benefit: means any transaction involving trustee benefit other than the provision of liability insurance. Governor training and reimbursement of expenses are not classed as a Trustee Benefit.

Date: 23/3/2023	Doc Name: Conflict-of-interest_redraftMarch2023	
Originator: Governance Advisor	Family: Corporate & Legal	Page 3 of 17

The college is required to comply with SORP 2019 FRS 102 with regard to conflicts of interest and related party transactions. This requires that no governor, other key management personnel or related individual or organisation uses their connection to the college for personal gain.

The Instrument of Government (Instrument 11) states that members should not hold interests in matters relating to the college. A member who has an interest in any matters being considered by Governing Body or one of its committees shall disclose the nature and extent of the interest; and if present at a meeting of Governing Body, or of any of its committees, at which the interest is relevant, not take part in the consideration or vote on any question with respect to it and may be asked to withdraw where required to do so.

Authority is required where there is a possibility of Trustee Benefit. This means that governors must ensure that there is a proper authority for any situations where they or someone connected to them, *could* benefit, irrespective of whether there is any actual benefit to a governor. This also includes where there is the possibility that a person's personal or wider interests could actually or be seen to influence decision making.

For everyone within the scope of this policy, their conduct should not create suspicion of any conflict between their official duty and their private interest.

4. SCOPE AND LIMITATIONS

The persons within the scope of this policy are

- Governors
- Executive Leadership Team
- College staff with budget responsibilities
- All staff, who should report by exception if they participate in making a decision about the admission or assessment of a Connected Person.

5. RESPONSIBILITIES

Persons within the scope of the Policy

Upon being appointed governors, senior post holders and senior staff with significant budget responsibility **must** make a full written disclosure of any business or personal relationships held by them or Connected People, financial or property interests held, other trusteeships, or gifts or hospitality received, that could potentially result in a conflict of interests. A declaration of interests form is provided and must be used for this purpose. Any question about whether an interest which should be disclosed should be referred in the first instance to the Clerk for a determination.

They are also responsible for

- notifying any changes to their disclosure to the Clerk as soon as possible
- checking the accuracy of the information disclosed on the Register at least annually when asked to do so by the Clerk
- annually disclosing third party transactions or confirming there are none
- making a final check and updating their disclosure before leaving Governing Body.

Date: 23/3/2023	Doc Name: Conflict-of-interest_redraftMarch2023	
Originator: Governance Advisor	Family: Corporate & Legal	Page 4 of 17

The Sheffield College

Governance Advisor and Clerk to Governing Body is responsible for

- maintaining the Register of Interests and make it available to enquirers as required by the Instrument and Articles of Government
- administering the process for governors, senior post holders and senior staff with significant budget responsibility to disclose their interests and any third party transactions and check/update their disclosure at least annually
- record any specific disclosures made in meetings of Governing Body and its committees and the action taken in the meeting to remove the conflict of interest.
- Advising Governing Body on eliminating conflicts of interest or where governors have decided against removing the conflict, how to prevent it from affecting any decision or course of action
- consult with Audit & Risk Assurance Committee and External Auditors to ensure that Trustee Benefits or payments to related parties are properly authorised.

Audit & Risk Assurance Committee is responsible for

- overseeing the corporation's policy and procedures for identifying, recording and managing Conflicts of Interest to provide assurance that they do not affect decision making
- where third party payments are identified, to oversee how the college is managing the services or contract to ensure that there is no scope for perceived or actual influence in decision making about the contract.

All staff involved in administering or determining assessment of student work **must** be aware of the potential for a conflict of interest to arise should they be assessing students who are Connected People to them or colleagues.

6. IMPLEMENTATION ARRANGEMENTS

From the adoption of this policy, or upon being appointed, whichever is later, all governors and college staff within the Scope of the policy, 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. A declaration of interests form is provided and must be used for this purpose. Any question about whether an interest should be disclosed should be referred in the first instance to the Clerk for a determination.

Written disclosures will be kept on a register maintained by the Governance Advisor and Clerk to Governing Body.

All persons within the scope of this policy are required to update their disclosure as and when their circumstances or Interests change.

All disclosures will be reviewed on an annual basis (usually during the Spring term). The register will be accessible by any person wishing to inspect it, in accordance with clause 11(5) of Governing Body's Instrument of Government.

The register shall be available on the college website and for inspection during normal office hours at the college to any person wishing to inspect it.

Date: 23/3/2023	Doc Name: Conflict-of-interest_redraftMarch2023	
Originator: Governance Advisor	Family: Corporate & Legal	Page 5 of 17

7. MONITORING AND REVIEW

This conflicts of interest policy will be reviewed on an annual basis, by the Clerk under the authority delegated by Governing Body, and triennially by Audit and Risk Assurance Committee or more frequently should circumstances change.

8. SUPPORTING/RELATED DOCUMENTS

Governor Code of Conduct
College Code of Conduct
Financial Regulations
GB Standing Orders

Date: 23/3/2023	Doc Name: Conflict-of-interest_redraftMarch2023	
Originator: Governance Advisor	Family: Corporate & Legal	Page 6 of 17

PROCEDURES

Organisation of meetings where a governor has disclosed an interest

Where a governor has previously disclosed an Interest and the Chair or Clerk is satisfied that the Interest is relevant to an item on the agenda for a meeting of Governing Body or a committee, the governor concerned will not be sent the papers in respect of that item. Senior staff who are invited to attend a meeting of Governing Body or one of its committees must mention any relevant Interests at the start of the meeting and withdraw for that agenda item.

Decisions made other than at meetings

A similar approach will be adopted for Governing Body taking decisions by written resolutions. Any governor who has disclosed an interest considered by the Chair or the Clerk to be relevant to the matter to be decided by written resolution will not be sent the proposed resolution and will not be allowed to vote on it.

Management of conflicts of interests in meetings

This section of the policy should be read in conjunction with clause 11 of the Governing Body's Instrument of Government.

In the course of meetings of Governing Body, its committees and all other activities, governors and senior staff in attendance 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 of a type identified by Governing Body.

If there is a failure to declare an interest that is known to the Chair of Governing Body and/or the Chair of the Committee or of any such meeting/person responsible for organising such activities and/or the Clerk, the Chair of Governing Body or other such person or the Clerk will declare that interest.

After disclosure of a Conflict of Interest at a meeting, the governor and/or senior staff will be asked to leave the room (unless expressly invited to remain, possibly in order to provide information on the matter in hand). If they decline to withdraw then they may be required to do so by a majority vote of governors not subject to that conflicting interest. A governor with an Interest, will not be counted in the quorum for that part of the meeting and will not be permitted to vote on the question.

Where there is a Conflict of Loyalty and the affected governor does not stand to gain any benefit:

- the affected governor shall declare the conflict of loyalty
- if they believe this may affect their actual or perceived independence, then they should withdraw
- if they do not withdraw, the other governors present must decide what level of participation, if any, is acceptable on the part of the conflicted governor.

Ultimately it is for the other governors present to decide whether withdrawal is in the best interests of the college. The options might include deciding whether the governor having registered and fully declared the interest:

- can otherwise participate in the decision
- can stay in the meetings where the decision is discussed and made but not participate, or
- must withdraw from the decision-making process completely.

The governors may, before their discussion, ask a governor who is withdrawing to provide any information necessary to help make a decision.

Date: 23/3/2023	Doc Name: Conflict-of-interest_redraftMarch2023	
Originator: Governance Advisor	Family: Corporate & Legal	Page 7 of 17

The Sheffield College

All decisions of Governing Body or one of its committees made on the declaration of a conflict of interest will be reported in the minutes of the meeting. The report will record:

- the nature of the conflict;
- which trustees were affected;
- whether any conflicts of interest were declared in advance;
- an outline of the discussion;
- whether anyone withdrew from the discussion; and
- how the trustees took the decision in the best interests of the college.

Where a governor or senior staff member benefits from any such decision, this shall be reported in the annual report and accounts, in accordance with relevant accounting requirements.

Managing business relationships where a Conflict of Interest has been disclosed

Audit and Risk Assurance Committee will review the register of Interests at least annually. Where third party transactions are identified, ARAC may request further information about the management of the contract or services to seek assurance that there is no scope for perceived or actual influence in decision making about the contract.

Conflicts on Interest in admission and assessment procedures

Conflicts of interest may arise for any staff as a result of their roles as admissions tutors, assessors, invigilators, internal verifiers or assessment-related administrators.

The Conflict of Interest policy should be addressed in the induction of all new assessors, invigilators, internal verifiers and assessment-related administration staff.

As and when the situation arises, assessors, invigilators, internal verifiers and administrators of assessment-related materials **must** notify their line managers of any learners enrolled at the college who are Connected Persons (family members, other relatives or close friends).

Teachers who are aware that a learner is Connected to another member of staff should also inform their line manager to consider any potential conflicts.

Where an individual notifies a potential conflict of interest, the individual and line manager must document this carefully, together with those activities that must be avoided to remove the opportunity for actual or perceived bias. A note of the disclosure of a conflict of Interest and the action being taken should be agreed and sent to the Assistant Principal Quality of Teaching, Learning and Assessment who will arrange for the concern to be investigated and for documents to be retained for audit purposes.

Workers may be protected under the college Whistleblowing Policy, if they do not receive an adequate response from the line manager or Assistant Principal in relation to concerns about the integrity of assessment that are in the public interest.

Data Protection

The information provided in disclosures will be processed in accordance with the data protection principles set out in the Data Protection Act 2018. Data will be processed only to ensure that governors act in the best interests of the college and that governors uphold the Nolan Principles including openness and honesty.

The information that is shared on the public Register of Interests is clearly marked on the form. Governors are responsible for ensuring that Connected Persons understand the purpose of disclosing their personal data and how it will be processed. The information provided will not be used for any other purpose.

Date: 23/3/2023	Doc Name: Conflict-of-interest_redraftMarch2023	
Originator: Governance Advisor	Family: Corporate & Legal	Page 8 of 17

The Sheffield College

Political affiliation and trade union membership are protected as special data under the Data Protection Act 2018 and will not be included on the public register. Governors must disclose if they occupy a paid or unpaid role in a trade union or staff association which involves representing staff in negotiations with the college on pay and conditions.

Date: 23/3/2023	Doc Name: Conflict-of-interest_redraftMarch2023	
Originator: Governance Advisor	Family: Corporate & Legal	Page 9 of 17

Trustee Benefits for Governors

It is a basic principle of charity law that charity trustees, such as governors should not profit from their position. The Charities Act 2011 provides a detailed process whereby, exceptionally, charity trustees or people 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 governor wishes to receive such a payment.

Charity trustees are not allowed to receive remuneration simply for undertaking their duties as a trustee without the consent of the Charity Commission. 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 Chief Executive and staff governors), or by law, or with the consent of the Charity Commission, which is only granted in exceptional circumstances.

Trustees can only benefit from their charity where there is an explicit authority in place **before** any decision is made.

Examples of benefits to governors that would be Trustee Benefits are where the Governing Body decides to:

- pay a governor for carrying out their trustee role;
- pay a governor for carrying out a separate paid post within the college, even if that governor has recently resigned as a governor;
- pay a governor, or a person or company closely connected to a governor, for providing a service to the college. This covers anything that would be regarded as a service and includes legal, accountancy or consultancy services through to painting or decorating college premises, or any other maintenance work;
- employ a governor's spouse or other close relative at the college;
- allow a governor/employee or their relative special privileges;
- make exceptions to normal policy for governor/employee or their families.

In all the above examples a governor or employee with a conflict of interest must withdraw from the decision making process.

In addition, governors must not use information obtained at via Governing Body for their own benefit or that of another organisation if it has been obtained in confidence or has special value such as commercial sensitivity.

Conflicts of Loyalty

Conflicts of interest may arise because, although the affected governor or employee does not stand to gain any benefit, the governor's decision making at the college could be influenced by their other interests.

For example, a trustee's loyalty to the Corporation could conflict with their loyalty to

- o another organisation, such as their employer;
- o another charity of which they are a trustee;
- o a religious or political group;
- o a member of their family; or
- o another connected person or organisation.

Date: 23/3/2023	Doc Name: Conflict-of-interest_redraftMarch2023	
Originator: Governance Advisor	Family: Corporate & Legal	Page 10 of 17

The Sheffield College

The test is always to examine motivation and identify whether there is a conflict of interest where the governor's other interest could (or could be seen to) interfere with the governor's ability to decide the issue only in the best interests of the college.

Some conflicts of loyalty arise because a governor has a competing legal obligation or duty to another organisation or person. Others result from conflicting loyalties which governors owe or may feel towards family, friends or other people or organisations that are part of their network. A conflict of loyalty could also arise where the religious, political or personal views of a governor could interfere with their ability to decide the issue only in the best interests of the college.

Identifying low risk conflicts of loyalty

Deciding that a conflict of interest is low risk, and that the affected trustee can participate in the decision, is a judgment for the other governors present at the meeting. It will depend on the particular decision and relevant circumstances. The governors must take all relevant factors into account and be ready to explain their approach if asked.

Each governor's legal duty to act only in the best interests of the corporation means in practice that an individual governor who fails to declare a conflict of interest will fail to comply with their trustee duties. Staff who fail to declare interests may be subject to disciplinary procedures

Failure to disclose a relevant interest

The decision of the Chair as to whether a governor has failed to disclose a relevant interest shall be final. Failure to disclose a conflicting interest may lead to a governor being in breach of the Code of Conduct as well as of this policy. Such breaches may lead to Governing Body considering suspending or terminating the governor's membership of Governing Body, under the procedure in the Standing Orders. It may also result in the governor being subject to legal action and personal liability for breach of trust.

Failure by a governor 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 trustee, 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.

Breaches of this policy by a senior member of staff may lead to action being taken under relevant college disciplinary procedures.

Staff governors

Where the matter under consideration by Governing Body or any of its committees relates to the pay and conditions of all staff, or all staff in a particular class, a staff governor:

- a) need not disclose a financial interest; and
- b) may take part in the consideration of the matter, vote on any question with respect to it and count towards the quorum present at that meeting, provided that in so doing, the staff member acts in the best interests of the Corporation as a whole and does not seek to represent the interests of any other person or body, but
- c) shall withdraw from the meeting if the matter is under negotiation with staff and the staff member is representing any of the staff concerned in those negotiations.

Date: 23/3/2023	Doc Name: Conflict-of-interest_redraftMarch2023	
Originator: Governance Advisor	Family: Corporate & Legal	Page 11 of 17

Issued in accordance with the Standing Orders, Code of Conduct, Code of Ethics and the resolutions passed by the Governing Body at its meetings held on 17 November 1995 (minute 95/9/10 refers) and subsequently revised (20 February 1998 minute 98/1/6 and 17 March 2000 minute 00/3/5 refers)

Governors'/Senior Staff Personal Details

(only disclosed to auditors and regulators with a need to know – e.g. banks for money laundering checks)

Name:	
Address for correspondence:	
Telephone number (Home) Fax number (Home) Mobile number email address	
Date and place of birth:	
Name of employer, nature of employment or business	

I declare that having read the attached guidance, I have disclosed on the attached tables all of my financial and non-financial interests and I have provided a full list of related parties who are connected to me such as my close family and any bodies in which I have a controlling interest (whether or not there have been any transactions with them). I understand that it is my responsibility to disclose to the Clerk any changes to my interests as they arise.

Eligibility declaration - to be completed by members of Governing Body

I declare that, having read the attached guidance, I am/ remain eligible to hold the position of governor. I understand that it is my responsibility to disclose to the Clerk, anything that may lead to my disqualification as a governor.

Signed:..... Date:

Position: (Corporation member or Senior Staff):

The Sheffield College

REGISTER OF INTERESTS ENTRY– summary published on college website

Category of Interest	Please give details of the interest and whether it applies to yourself, or, where appropriate, a member of your immediate family, employer or some other close personal connection	Date when Interest was disclosed	Date when Interest changed or ceased
Current Employment and any previous employment (including Self Employment) in which you continue to have a financial interest			
Children at College	Yes/No		
Significant shareholdings			
Appointments (paid or unpaid e.g. Directorships) i) Directorships ii) Trusteeships or participation in the management of charities and other voluntary bodies iii) Local Authority membership/ Elected Office iv) Magistracy v) Tribunals			
Membership of professional bodies and trade or other associations			
Gifts or hospitality in excess of £50 offered by outside bodies arising from my membership of the Governing Body			
Remuneration for the provision of services, goods or consultancy within the College or with any other organisation connected with it			
Social Interests/Positions (e.g. membership of Clubs/Societies including closed organisations)			
Ownership of Land in the area of the College (i.e. City of Sheffield)	YES/NO		

My Business Interests

I am **aware/not aware*** of transactions affecting myself and the College which would classify as related party transactions

NB please note relevant interests and indicate if these have been disclosed on your Register of Interests update.

Related parties connected with me

*Please detail below the related parties who are connected with you (for further details and a definition of related party please see the explanation below). It is **important that the names of Connected People are recorded**, even if they do not have any substantial interests or influences. This information is used by External Auditor and College staff but is not disclosed in the Register of Interests unless a Conflict of Interest or Conflict of Loyalty is identified.*

Relationship e.g., spouse, children, parents, in-laws etc	Names	Business Interests e.g., Director or control held within Companies, Partnerships, LLPs, Trustee roles. If none, please state.
Spouse, Civil Partner or Domestic Partner		
Children and Stepchildren of you or your spouse / civil partner (over the age of 18)		
Grandchildren and Step- grandchildren (over the age of 18)		
Parents (and in-laws)		
Grandparents (and in-laws)		
Siblings (brother / Sister / Stepbrother / Stepsister / in-laws)		

If you require more space for disclosures, please attach a blank sheet. Disclosures should be given in sufficient detail to understand the nature of the relationship and the parties concerned.

For Governors please read - Governors/ committee members or Senior Staff

Any interest, financial or otherwise (including an interest of an immediate family member), which is likely or would, if known, be perceived as being likely to interfere with the exercise of a governor's independent judgement should be disclosed.

Listed below are some of the more likely areas in which this might apply.

1) Financial Interests

- a. remunerated employment, office, profession, or other activity
- b. directorship of a company – remunerated or otherwise
- c. significant shareholdings in a company (i.e. greater than £25,000 or more than 5% of the total shares issued)
- d. partnership in a business or professional partnership
- e. consultancies - remunerated or otherwise
- f. trusteeship of a trust where a governor or his/her partner or spouse or a member of his/her family may be a beneficiary
- g. gifts or hospitality offered by outside bodies and arising from the person's position as governor
- h. all financial interests with the College, such as provisions of goods or services or remuneration for consultancy

2) Personal Interests

- a. members of another public body, including
 - i. local authority
 - ii. health authority
 - iii. NHS trust
 - iv. Academy, school or college governing body or trust
- b. unremunerated posts, honorary positions and other positions that might give rise to a conflict of interest.
- c. membership of closed organisations.

The Clerk will maintain a register of interests which will be open for public inspection. **A summary of Governors/ Senior Staff interests will also be published on the College website.** Every governor is required to update their entry on an annual basis, even if a nil return. Governors should inform the Clerk whenever their circumstances change, and interests are acquired or lost.

Date: 23/3/2023	Doc Name: Conflict-of-interest_redraftMarch2023	
Originator: Governance Advisor	Family: Corporate & Legal	Page 15 of 17

Guidance for completing eligibility statement

Eligibility: Articles of Government

- 1) Governors should be **aged 18 or over** at the date of election or appointment (with the exception of student governors).
- 2) A governor shall cease to hold office if
 - a. incapable by reason of illness or injury of managing or administering their own affairs.
 - b. absent without the permission of the governors from all their meetings held within a period of six months and the governors resolve that the office be vacated.
 - c. declared bankrupt and/or the estate has been seized (and not discharged, annulled, or reduced); or is the subject of a bankruptcy restrictions order or an interim order.
 - d. subject to disqualification under the
 - i. Company Directors Disqualification Act 1986
 - ii. Insolvency Act 1986
 - iii. Companies Act 2006
 - iv. Charities Act 2011

All governors are required to undertake an application for a criminal records certificate (disclosure and barring) at an enhanced disclosure level. In the event that the certificate discloses any information which would in the opinion of either the Chair or the Chief Executive & Principal confirm their unsuitability to work with children that person shall be disqualified. If a dispute arises as to whether a person shall be disqualified, a referral shall be made to the Secretary of State for Education whose decision will be final.

Eligibility: Charity Law

The Sheffield College is an exempt charity and as such governors should also conform to Charity Commission guidelines on eligibility. A person is not eligible to be a governor if they have certain unspent convictions or are legally disqualified for one of the reasons below. (Note: this list includes the new guidance taking effect from 01.08.18).

1) Unspent convictions for:

- a. An offence involving dishonesty or deception
- b. Specified terrorism offences
- c. Specified money laundering offence
- d. Specified bribery offences
- e. The offence of contravening a Charity Commission order or Direction
- f. Offences of misconduct in public office, perjury, or perverting the course of justice
- g. Aiding, attempting, or abetting the above offences

Date: 23/3/2023	Doc Name: Conflict-of-interest_redraftMarch2023	
Originator: Governance Advisor	Family: Corporate & Legal	Page 16 of 17

The Sheffield College

2) Legal disqualifying reasons:

- a. Being on the sex offenders register
- b. Unspent sanction for contempt of Court
- c. Disobeying a Commission Order
- d. Being a designated person (under specific anti-terrorist legislation)
- e. Being a person who has been removed from a relevant office (e.g. charity trustee, agent or employee)
- f. Director disqualification.

Date: 23/3/2023	Doc Name: Conflict-of-interest_redraftMarch2023	
Originator: Governance Advisor	Family: Corporate & Legal	Page 17 of 17