



Declaration / Conflicts of Interest Policy

1 Purposes of the policy

It is the policy of MidKent College Governing Body (“the Corporation”) that all members of the Corporation and senior staff attending Corporation and/or corporation committee meetings and corporation committee members who are not members of the Corporation must keep to the absolute minimum all unavoidable conflicts of interest between the interests of the Corporation on the one hand and the personal, professional and business interests of the member or senior staff member 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.

The purposes of this policy are:

- 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 and senior staff.

2 Disclosure of interests

From the adoption of this policy, or upon being appointed, whichever is later, all members of the Corporation 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. A declaration of interests form is provided and must be used for this purpose. 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.

Written disclosures will be kept on a register maintained by the Clerk to the Corporation and all members and senior staff will be 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 members and the Corporation's internal and external auditors.

3 Organisation of meetings where a member has disclosed an interest

Where a member has previously disclosed an interest and the Chair 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 member concerned may not be sent the papers in respect of that item.

4 Management of conflicts of interests in meetings etc

In the course of meetings of the Corporation or a corporation committee and all other activities (for example, where a Governor has a family member associated with or working with the College) all members 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 of a type identified by the Corporation. If there is a failure to declare an interest that is known to the Chair of Corporation and/or the Chair of the committee or of any such meeting/person responsible for organising such activities and/or the Clerk to the Corporation, the Chair of Corporation or other such person or the Clerk will declare that interest. After disclosure of any such interest, in the case of a meeting the member and/or senior staff member 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 member 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 member or staff member 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.

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.

Where a member 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.

5 Failure to disclose a relevant interest

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 being in breach of the Corporation's Code of Conduct as well as of this policy and in the Standing Orders. It may also result in the member 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 membership of the Corporation. Such breaches by a senior member of staff may lead to disciplinary action being taken under the College's staff disciplinary procedures.

6 Automatic Disqualification

From 1 August 2018 changes have been made to the current rules on the automatic disqualification of Governors. These are relevant for Governors of Further Education corporations, as well as senior employees of the FE corporations. The changes introduce further restrictions on who can be a Governor and, importantly, have a knock on effect on the ability of disqualified persons to work in a senior management position at the institution. Section 178 of the Charities Act 2011 sets out circumstances in which a person is automatically disqualified from acting as a Governor but in January 2018, the Charities (Protection and Social Investment) Act 2016 (Commencement No. 2 and Transitional Provision) Regulations (SI 2018/47) were made and came into force on 1 August 2018

Therefore from 1 August 2018 individuals will be automatically disqualified from acting as a Governor of the College if:

1. You have an **unspent** conviction for any of the following
 - a) an offence involving **deception or dishonesty**
 - b) a **terrorism** offence
 - a. to which Part 4 of the Counter-Terrorism Act 2008 applies
 - b. under sections 13 or 19 of the Terrorism Act 2000
 - c) a **money laundering** offence within the meaning of section 415 of the Proceeds of Crime Act 2002
 - d) a **bribery** offence under sections 1, 2, 6 or 7 of the Bribery Act 2010

- e) an offence of **contravening a Commission Order or Direction** under section 77 of the Charities Act 2011
 - f) an offence of **misconduct in public office, perjury or perverting the course of justice** yes/no
 - g) In relation to the above offences, an offence of: attempt, conspiracy, or incitement to commit the offence; aiding, or abetting, counselling or procuring the commission of the offence; or, under Part 2 of the Serious Crime Act 2007(encouraging or assisting)in relation to the offence
2. You are **on the sex offenders register** (ie. subject to notification requirements of Part 2 of the Sexual Offences Act 2003)
 3. You have an unspent sanction for **contempt of court** for making, or causing to be made, a false statement or for making , or causing to be made, a false statement in a document verified by a statement of truth
 4. You have been found guilty of **disobedience to an order or direction of the Commission** under section 336(1) of the Charities Act 2011.
 5. You are **a designated person** for the purposes of Part 1 of the Terrorist Asset-Freezing etc. Act 2010, or the Al Qaida (Asset Freezing) Regulations 2011.
 6. You have **previously been removed as an officer, agent or employee of a College** by the College Commission, the Scottish College regulator, or the High Court due to misconduct or mismanagement
 7. You have **previously been removed as a Governor** of a College by the College Commission, the Scottish College regulator, or the High Court due to misconduct or mismanagement
 8. You have been **removed from management or control of anybody** under section s34(5)(e) of the Charities and Governor Investment (**Scotland**) Act 2005 (or earlier legislation)
 9. You are **disqualified from being a company director**, or have given a disqualification undertaking, and leave has not been granted (as described in section 180 of the Charities Act) for you to act as director of the College
 10. You are **currently declared bankrupt** (or subject to bankruptcy restrictions or an interim order)
 11. You **have an individual voluntary arrangement** (IVA) to pay off debts with creditors
 12. You are **subject to** a moratorium period under **a debt relief order**, or a debt relief restrictions order, or an interim order
 13. You are subject to an order made under s.429(2) of the Insolvency Act 1986. (**Failure to pay under a County Court Administration Order.**)

If one of the disqualification reasons does apply, you may be able to apply for a waiver from the College Commission which will allow you to take up or continue to act as a Governor. Please ask the Clerk for advice or for further information follow these links.

<https://www.gov.uk/guidance/automatic-disqualification-rules-for-charity-trustees-and-charity-senior-positions>
<https://www.gov.uk/guidance/automatic-disqualification-rules-for-charity-trustees-and-charity-senior-positions>

7 Data Protection

Charities must make sure any declaration forms are handled and processed in accordance with duties under the General Data Protection Regulation (GDPR) and Data Protection laws. Data will be processed only to ensure that members act in the best interests of the Corporation. The information provided will not be used for any other purpose.

8 Review of this policy

This conflicts of interest policy will be reviewed on an annual basis by the Clerk and reported to the Search & Governance Committee if amendments are required. Any changes will be recommended to the Governing Body.

Last amended and approved by the Governing Body on 17 October 2018.

Amended S&G and approved GB 5 June 2019



MidKent College

Declaration of Interests Form

I as **Governor or senior staff** of MidKent College have set out below my interests in accordance with the Corporation's conflicts of interest policy.

| Category | Please give details of the interest and whether it applies to yourself or, where appropriate, a connected person as defined by the Charities Act 2011 and 2016 such as a member of your immediate family, employer or some other close personal connection. |
|---|--|
| Current employment and any previous employment in which you continue to have a financial interest. | |
| Appointments (voluntary or otherwise) eg. Governorships, directorships, local authority memberships, magistracy, tribunals etc. | |
| Membership of any professional bodies, special interest groups or mutual support organisations. | |
| Companies in which you hold more than 1% of the share capital. | |
| Gifts or hospitality in excess of £50 of more accepted in the last twelve months. | |

| | |
|--|--|
| Any contractual relationship with the Corporation or any company or other organisation connected with the Corporation. | |
| Any other interests which you consider are appropriate to disclose and are not covered by the above. | |
| Any other matter (e.g. a criminal conviction or an act of bankruptcy) which would make you ineligible for membership/continued membership of the Corporation including those under the revised automatic disqualification rules of August 2018 set out in section 6. | |

NB: Annex B of The Office of Students regulatory framework (HE) requires that members of the Governing body are 'fit and proper persons'.

DECLARATION OF ELIGIBILITY TO SERVE AS A MEMBER OF THE CORPORATION

- 1) I declare that, to the best of my knowledge I am fit and able to discharge the functions of a Member of the Corporation, in accordance with the Instrument & Articles of Government, and to act as a Trustee in accordance with Charity Law.
- 2) I will inform the Clerk to the Corporation immediately, if, after the date of this declaration, one or more of the disqualification reasons applies to me.

GENERAL DECLARATION

- 1) I certify that the information given in this form is true and correct to the best of my knowledge.
- 2) I declare that I will abide by the Governors' Code of Conduct, the College's Financial Regulations, the Board's Standing Orders and all other related and approved policies by the Board.

- 3) I agree that the information given by me may be used for registered purposes under the Data Protection Legislation, including the General Data Protection Regulations, and I agree that my name and photograph will be published on the College’s website unless I specify otherwise.
- 4) I understand that, as a Member of the Board, I am required to declare all my relevant interests and those of my close family.
- 5) I understand that, as a Member of the Board, the Corporation has undertaken an enhanced Disclosure & Barring Service check on me.
- 6) I agree to inform the Clerk immediately if there is any change in my circumstances which affect the Board

To the best of my knowledge, the above information is complete and correct. I undertake to review the accuracy of the information on an annual basis. I give my consent for it to be used for the purposes described in the conflicts of interest policy and for no other purpose.

I am not disqualified from acting as a Governor under any of the reasons set out in the Disqualification section 6 of this policy.

Signed:

Position (Governor/ Senior Staff):

Date:

....