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REGIONAL BOARD REPORT

Subject: Conflict of Interest Policy and Procedure	**Purpose:** **For Approval** ☒ **For Discussion** ☐ **For Information** ☐
Prepared by: David Killean	**Date:** 20 February 2017

Purpose: To seek approval of the Conflict of Interest Policy and Procedure

Executive Summary:

The Board Secretary is proposing the Board has its own Conflict of Interest Policy and Procedure to provide clear guidance to all Board members as to when a conflict of interest may arise; what to do under such a circumstance and how the Board should monitor and act in the case of conflicts of interest.

The policy forms part of managing and mitigating any risk associated with conflict of interest and is in line with the Code of Good Governance.

Recommendation: To approve the policy and procedure

Previous Committee Approvals: None

For publication ☒	**For publication with redactions** ☐	**Not for publication** ☐

Signed:

Author **Principal**

BORDERS COLLEGE

Working Together

Conflict of Interest Policy and Procedure

February 2017

Charity Number SC021180

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History of Changes

Version	Description of Change	Authorised by	Date
1.1	New Policy and Procedure to provide clear guidance to the Board and Committees in managing conflicts of interest.	D Killean	01/02/2017

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Conflict of Interest Policy

1. Introduction

1.1 Borders College is a registered charity (Charity Number: SC021180). All Regional Board members are therefore Charity Trustees and are subject to relevant legislation and regulation as it applies to charitable organisations in Scotland, as well as College legislation. The specific sections of charity law in Scotland dealing with Conflict of Interest are:

- Charities and Trustee Investment (Scotland) Act 2005 (Section 66 - Charity Trustees General Duties)
- The Scottish Charitable Incorporated Organisations Regulations 2011 (Regulation 2)

1.2 This policy complies with and supports the seven principles of public life (the Nolan Principles) of Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, and Leadership.

1.3 This policy reflects the responsibilities of Board members as outlined in the revised Code of Good Governance (2016) and the Code of Conduct.

1.4 The Policy and Procedure are a requirement under the Scottish Charitable Incorporated Organisations Regulations 2011 that state a charity must have within its constitution a procedure for dealing with any conflicts of interest.

1.5 The purpose is to protect the integrity of the Regional Board's decision-making process, to enable stakeholders to have confidence in the College's integrity, and to protect the integrity and reputation of Board members.

2. Scope

2.1 This policy and procedure applies to all members of the Regional Board as trustees when involved in deliberations and making decisions on behalf of the College.

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3. Key Principles

3.1 Board members must, in exercising their duties as a charity trustee, act in the interests of the College and ensure that they act in a manner that is consistent with the College's purpose.

3.2 Board members must also act with the care and diligence that is reasonable to expect of a person who is managing the affairs of others; put the interests of the College before all others; and, where any other duty prevents the Board member from doing so, disclose the conflicting interest and refrain from participating in any deliberation or decision with respect to the matter in question.

3.3 All Board members will strive to avoid any conflict of interest between the interests of the College on the one hand, and personal, professional, and business interests on the other. This includes avoiding perceived conflicts of interest as well as any actual conflicts of interest.

3.4 Board members have a duty to bring to the attention of the Board any breaches of the Conflict of Interest Policy to ensure that this can be corrected by the Board member and the Board.

3.5 Any breach of this duty is treated as being misconduct in the administration of the Regional Board. Where breaches are serious or persistent the Board should have in place procedures to rectify this up to the removal of the Board member/trustee.

4.0 Responsibilities

4.1 Chair of the Board

- Responsible for advising Board members whether there may be a conflict of interest where there is any doubt.
- Confirming to the Regional Board when such a conflict has been identified.
- The Chair will also have responsibility for any final decision on how any conflict of interest is managed.
- Responsible for managing procedures for rectifying serious or persistent breaches up to the removal of Board members.

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4.2 Board Secretary

- Responsible for ensuring the correct implementation of the Policy and Procedure.
- Providing advice to Board members in respect of possible or perceived conflicts of interest.
- Ensuring awareness among Board members of the Conflict of Interest Policy and Procedure.
- Responsible for ensuring compliance of this Policy with current legislation, guidance and codes of practice.

4.3 Audit Committee

- Responsible for monitoring instances of confirmed conflict.
- Responsible for referring such instances to the Chair of the Regional Board as appropriate.
- Reviewing and approving the Conflict of Interest Policy and Procedure.

4.4 Vice Chair of the Board

- As the Senior Independent Member, the Regional Board Vice Chair will ensure the resolution of any disagreement with regard to an actual or perceived conflict of interest.
- Responsible for informing Scottish Ministers in the case of serious or persistent breaches in conflict of interest by the Chair.

5.0 Related Documents

5.1 Code of Good Governance for Scotland's Colleges 2016
5.2 Charities and Trustee Investment (Scotland) Act 2005 Section 66
5.3 The Scottish Charitable Incorporated Organisations Regulations 2011 (Reg. 2)

6.0 Review

This policy will be reviewed every 3 years.

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7.0 Procedure

The Procedure comprises four key steps
(Ref OSCR.org.uk/charities/guidance):

- Identify
- Manage
- Record
- Learn

7.1 Identify

7.1.1 Ensure the Conflict of Interest Policy is regularly reviewed, and that Board members fully understand what constitutes a conflict of interest.

7.1.2 The College's Standing Orders must indicate how conflicts of interest are managed.

7.1.3 Keep the Register of Interests up to date by annual review.

7.1.4 Have an item in respect of conflict of interest declaration at the top of each Board and Board Committee agenda.

7.1.5 Board members must declare a conflict of interest as soon as one becomes evident, whether it is actual, potential, or perceived.

7.1.6 In case of doubt, Board members will discuss any perceived or potential conflict of interest with the Board Chair.

7.2 Manage

7.2.1 Ensure the Conflict of Interest Policy and Procedure is regularly reviewed, and that Board members are familiar with it.

7.2.2 Apply the Conflict of Interest Policy and Procedure whenever there is a conflict or potential conflict.

7.2.3 Decide if the person(s) with a conflict of interest should be involved in any discussions or decisions about the situation – if it is decided they should be involved be prepared to justify

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that decision.

7.2.4 Where there is a conflict, make sure that decisions are taken in the charity's interests.

7.2.5 Make sure that the Regional Board can still undertake its responsibilities even if a number of members have to withdraw.

7.2.6 Ensure there are processes in place to manage persistent or serious breaches of this Policy.

7.3 Record

7.3.1 Keep a written record of the situation and any steps taken by the Regional Board, the Chair, and/or the Board Secretary, including:

- Recording whom the conflict affected.
- Recording when the conflict was identified and declared.
- Recording what was discussed and decided.
- Recording who withdrew from the decisions and how the remaining members made a decision in the best interests of the charity.
- Maintaining the charity's register of interests.

7.4 Learn

7.4.1 Learn from the experience, make improvements to the College's Policy and Procedures and where necessary seek professional advice.

7.4.2 Where conflicts of interest arise frequently and a number of Board members (charity trustees) must withdraw from discussion, the Regional Board should consider whether the make-up of the Board is preventing the effective management of the College.

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8.0 Examples of potential Conflicts of Interest

- a Board member could get direct financial benefit from a decision the charity has to make;
- a Board member is involved in discussion of a contract or business arrangement with an organisation their family have links to;
- a Board member is also an employee of a company that the charity is doing business with;
- an employee, or potential employee, of the College is connected to one of the Board members;
- being a trustee of another charity that is competing with the College for the same grant(s) or funding;
- being a trustee of a charity that gives out grants and a Board member when the College is applying for one of these grants;
- being a Board member where you are also applying to become or have become a student of the College (excluding elected student members);
- being a Board member applying for a job at the College.

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Equality Impact Assessment

(Rapid impact assessment tool)

What Impacts may there be from this proposal on any group's ability to use the college services?

Policy:

Positive Impacts (Groups affected)	**Negative Impacts (Groups affected)**
The policy ensures that decisions are made in the best interests of the College as a charitable institution which are aligned with its strategic purpose to operate to deliver success for all learners.	No recognisable negative impacts
Actions taken to alleviate any negative Impacts:	
Recommendations:	

From the outcome of the rapid equality impact assessment, have negative impacts been identified for any protected characteristic or any other potentially disadvantaged group?

Has a full Equalities Impact Assessment been recommended?

Yes ☐

No x

Reason for recommendation:

Status:	draft
Policy Dated:	Feb 2017
Author:	Board Secretary
Review Date:	Feb 2020

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