

Policy Statement

It is good practice for charities to have a conflict of interest policy to ensure the integrity and independence of the organisation and its associates. The purpose of this Policy is to:

- assist in identifying conflicts of interest for Jersey Recovery College (The College);
- establish a system for disclosure of conflicts of interest;
- provide guidance to those responsible for dealing with conflicts of interest;
- assist in the resolution of conflicts of interest in order to protect The College.

Terminology

The term 'conflict of interest' can be described as 'a situation in which an individual has a private or personal interest that has the potential to undermine their impartiality and/or influence their objectiveness in trying to act in the best interests of The College'. For Directors and Members of The College, this is particularly important. Directors and Members have a duty to act in the best interests of the charity.

For the purpose of this Policy, the term 'conflict of interest' includes perceived and potential as well as actual conflicts of interest.

- A perceived conflict of interest is one which a reasonable person would consider likely to compromise objectivity.
- A potential conflict of interest is a situation which could develop into an actual or perceived conflict of interest.

The term 'individual' is taken to mean anyone who has any connection to The College through the supply of funding or services (paid or otherwise), and includes but is not limited to:

- Members;
- Directors;
- Employees;
- Volunteers;
- Any other type of service provider.

This policy also extends to those connected with any of those parties, to include:

- Children, grandchildren, parents, brothers and sisters, and the spouse, unmarried partner or civil partner of any of them;
- Any person who is in a business partnership with a charity trustee or with a member of a charity trustee's family; and,
- Any company, business, trust or organisation in which an individual (or any other person connected to them) has an interest as a beneficiary or through ownership, control or influence.

If in doubt about whether a person is connected, The College should seek advice from a solicitor or other person qualified to advise on the matter.

Private, personal or commercial interest

Private or personal interest refers to any associated interests an individual may have with organisations, projects or agencies outside of The College which may impact on their role at The College or have the potential to implicate The College in any misdemeanour or incident the individual/project/agency may have, even if The College is not directly involved in any way other than the relationship the individual has to both organisations.

Financial interest refers to anything of a non-trivial monetary value, including, but not limited to:

- Pay (particularly paying Directors/Members for their role as Director/Member or a separate paid post);
- Commission;
- Consultancy fees;
- Equity interest;
- Fundraising conflicts;
- Property.

Non-financial interest refers to any non-financial benefit or advantage, including, but not limited to:

- Enhancement of an individual's career;
- Education or professional reputation;
- Access to privileged information or facilities.

Determining a conflict of interest

In order to determine whether a conflict of interest exists, it should be determined whether the private, personal or commercial interest is likely to interfere or appear to interfere with the objective judgement of an individual or if an individual's involvement with an external organisation, project or agency could potentially or could be perceived to potentially impact the good reputation of The College.

An individual should ask themselves if relevant others (e.g. managers, students, service users colleagues, members of the public) would trust their judgement if they were in possession of the facts of the private, personal or commercial interest and/or if relevant others would perceive an associated reputational threat to The College via an individual's relationship with The College and an external organisation, project or agency.

Examples of conflicts of interests

It is impossible to list all possible conflicts of interest, since circumstances and relationships will vary. However, serious conflicts of interest would include circumstances such as an individual:

- Using their position to influence a contract or other favourable terms in which they, or a relative or friend, have a financial interest;
- Influence employment or promotion or other financial or non-financial benefit for a relative or friend;
- Obtain financial or non-financial benefits for themselves or for a relative or friend in return for providing advantage, or potential advantage;
- Compromising their objectivity or independence in return for financial or non-financial benefit for themselves or for a relative or friend;

- Using College resources or confidential information obtained through their association with The College for personal, financial or non-financial benefit, or for the benefit of a relative or friend or for another organisation;
- Conducting business, employment or activity outside The College, which adversely affects their ability to perform their own duties for or on behalf of The College or could impact on the good reputation of The College via association.
- Signposting to organisations, projects or agencies that have not been approved by College Management.*

It could also be considered a conflict of interest to partner with a private or community organisation which could be seen to commercially benefit from its partnership with The College.

* From 2019, the College will keep a list of approved organisations, projects or agencies that are to be used for signposting. These organisations, projects or agencies will be registered charities or will be community or commercial registered entities that are providing a service that may be helpful to the College's students. The Executive Officer will approve the signposting list. Consideration will be made on the governance of each organisation, project or agency and the quality of service being delivered.

Being unsure if a conflict of interest exists

If an individual believes there may be a conflict of interest, but is unsure, their default position should be to assume that there is a conflict of interest and act accordingly. Similarly, if a Manager or Director becomes aware of a possible conflict of interest, which an individual appears not to have considered, they should bring it to the individual's attention for appropriate consideration.

Disclosure of a conflict of interest

The responsibility for avoiding conflict of interest, in the first instance, lies with the individual. If a conflict of interest situation arises, individuals should disclose the conflict of interest as soon as possible, in full, and seek a resolution. They will then be advised whether they may continue to take part in the matter(s) or activity in question. It may be the individual is advised by The College to cease the activity in question until such time as the potential conflict is resolved in accordance with the resolution clause below.

In the case of Directors and Members this may constitute withdrawing from a discussion and/or vote should a conflict be present. All Directors and Members must sign a Declaration of Interests statement upon appointment which will be held by the Company Secretary and referred to should a conflict or perceived conflict arise. Declarations of Interests should be revisited by Directors and Members annually. Directors / Members should flag conflicts of interest at the start of each meeting that may impact on any agenda item. They should also voluntarily withdraw from any discussions where a conflict of interest is uncovered. All conflicts must be noted in the minutes.

In the case of an employee, trainer or volunteer, conflicts of interest should be disclosed to the Executive Officer. Where an employee, co-trainer, peer trainer or volunteer identifies a potential conflict of interest, but does not wish to reveal the details to the Executive Officer and has been unable to withdraw from the situation, they should disclose the conflict to a member of the Board of Directors. If the individual still does not wish to reveal the details and is unable to withdraw from the conflict they should seek their own independent legal advice.

Disclosure must include sufficient information to enable appropriate resolution, which is likely to include:

- The type of potential conflict of interest;
- The nature of the activity;
- A description of all parties involved;
- The potential financial or non-financial interests or benefits;
- The potential impact of the conflict on The College;
- Any other relevant information.

The confidentiality of disclosures must be respected as far as possible; the information must only be shared with those with a need to know. The person to whom the conflict of interest has been disclosed (the Reviewer) must keep a written record of the disclosure and all subsequent related actions and decisions.

Failure to disclose a conflict of interest

Failure to disclose an actual or perceived conflict of interest, or to cease involvement in the situation until the conflict has been resolved may result in one of the actions listed below depending on the type of individual involved in the conflict; for example:

- In the case of a Director of the Board, The Board may vote to remove that Director and cease the activity related to the conflict;
- In the case of an employee of the College, disciplinary action may be taken;
- In the case of a service provider, any contract or perceived contract for services may be cancelled.

In determining what action is appropriate, consideration should be given to the extent to which the individual was aware of the actual or perceived conflict of interest and/or made a reasonable decision not to declare it.

Resolution of conflicts of interest

Once a conflict has been disclosed, the Reviewer is responsible for resolving the conflict of interest as soon as is reasonably practicable. The individual will be advised whether they can or cannot take part in the particular activity or matter relating to the potential conflict until it is resolved. Every effort should be made to reach agreement with the individual regarding the solution.

The Reviewer should consider obtaining advice from colleagues in other relevant professional areas, as appropriate, such as the Chair of the Board, the Treasurer, Health and Social Services, Jersey Advisory and Conciliation Service or other relevant advisers.

Where a resolution cannot be reached within one working week, the Reviewer must make a preliminary decision, either:

- To permit the individual to continue the activity in the interim, possibly with modifications; or,
- To require the individual to suspend involvement in the relevant activity pending final resolution.

The individual should be notified of the preliminary decision within one working week and reasons should be provided where they are required to suspend involvement in the activity.

In most cases, the solution will be one of the following:

- Agreement that there is no conflict of interest;

- That it is not sufficient to be of any concern to The College; and/or,
- Agreement to allow the activity with modifications.

Options for modifications include:

- Disclosure of all pertinent information to other relevant individuals;
- Exclusion from, or third party review of, any decision-making/authorisation;
- Revisions to the activity or matter concerned;
- Reduction of involvement in the matter or activity;
- Close monitoring of the matter or activity;
- Termination of involvement by others (e.g. a relative or friend) in the matter or activity
- divestiture of relevant personal interests;
- Reimbursement by the individual to the College for indirect costs or for the use of facilities/services;
- For the individual not to be involved in any way, thus removing the conflict of interest (termination of employment or contract).

Resolutions involving employee

In the case of an employee, where agreement cannot be reached and the employee is not satisfied with the decision, he/she may take the matter up through the College's Grievance Procedure.

Record keeping

In all cases, in order to protect the interests of the individual and the Reviewer, the Reviewer should keep a record of the disclosure and solution to the conflict of interest. A Conflicts of Interest register should be maintained. Where a conflict of interest is ongoing it is important that the current Reviewer pass all papers on to anyone who may take over the case at a later stage.

Related policies

Other documents that may be related to the Conflict of Interest Policy include:

- Contract of Employment;
- Code of conduct;
- Disciplinary Policy;
- Grievance Policy;

Implementation of Policy

This Policy shall be deemed effective as of 13th May 2021. No part of this Policy shall have retroactive effect.